

BEFORE THE
ILLINOIS COMMERCE COMMISSION

ILLINOIS POWER COMPANY d/b/a) DOCKET NO.
AmerenIP) 06-0706
and)
AMEREN ILLINOIS TRANSMISSION)
COMPANY)
)
)
Petition for a Certificate of)
Public Convenience and Necessity,)
pursuant to Section 8-406 of the)
Illinois Public Utilities Act, to)
construct, operate and maintain)
new 138,000 volt electric lines in)
LaSalle County, Illinois.)

Springfield, Illinois
Tuesday, September 25, 2007

Met, pursuant to notice, at 10:00 a.m.

BEFORE:

MR. JOHN ALBERS, Administrative Law Judge

APPEARANCES :

MR. CHRISTOPHER W. FLYNN
MR. ALBERT D. STURTEVANT
JONES DAY
77 West Wacker
Chicago, Illinois

(Appearing on behalf of
Petitioners)

SULLIVAN REPORTING COMPANY, by
Carla J. Boehl, Reporter, Lic. #084-002710

1		<u>I N D E X</u>			
2					
3	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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PROCEEDINGS

JUDGE ALBERS: By the authority vested in me by the Illinois Commerce Commission, I now call Docket Number 06-0706. This docket was initiated by Illinois Power Company d/b/a AmerenIP and Ameren Illinois Transmission Company. The Petitioners seek a Certificate of Public Convenience and Necessity pursuant to Section 8-406 of the Act to construct, operate and maintain a new 138 kV electric line in LaSalle County, Illinois.

May I have the appearances for the record, please? Why don't we start at the table on my left.

MR. STURTEVANT: Appearing on behalf of the Ameren companies, Christopher Flynn and Albert Sturtevant, Jones Day, 77 West Wacker, Chicago, Illinois, and Ed Fitzhenry, of Ameren, 1901 Chouteau Avenue, St. Louis, Missouri.

MR. MADIAR: Appearing on behalf of the Illinois 71 Resistors, Eric Madiar, with the law firm of Freeborn and Peters, and Michael Scotti, Springfield address 217 East Monroe Street, Suite

1 202, Springfield 62701. Address in Chicago is --

2 MR. SCOTTI: 311 South Wacker, Chicago,
3 Illinois 60606. And for the record my name is
4 spelled S-C-O-T-T-I, Scotti.

5 MR. ZUKOWSKI: Walt Zukowski on behalf of
6 LaSalle-Peru Township High School, 817 Peoria Street,
7 Peru, Illinois 61354, Z-U-K-O-W-S-K-I.

8 MS. VON QUALEN: Janis Von Qualen and James
9 Olivero on behalf of the Staff of the Illinois
10 Commerce Commission, 527 East Capitol Avenue,
11 Springfield, Illinois 62701.

12 MR. LEIGH: Keith R. Leigh. Last name is
13 spelled L-E-I-G-H, Pool, Leigh and Kopko, PC, on
14 behalf of the City of Ottawa. My address is 628
15 Columbus Street, Suite 208, Ottawa, Illinois.

16 MR. SHAY: Appearing on behalf of Safety and
17 Health for Our Community and Kids or SHOCK, William
18 M. Shay, 456 Fulton Street, Suite 203, Peoria,
19 Illinois 61602. Phone number is (309) 636-7167.

20 JUDGE ALBERS: Around the side of the table
21 here, any attorneys? Moving along here.

22 MR. FODOR: Troy Fodor, F-O-D-O-R, appearing on

1 behalf of the Illinois Municipal Electric Agency. My
2 business address 913 South Sixth Street, Springfield,
3 Illinois, zipcode is 62703.

4 MR. KLEIN: Herb Klein on behalf of the Village
5 of North Utica, 925 Shooting Park Road, Suite A,
6 Peru, Illinois 60351.

7 MR. MURPHY: On behalf of PROTED and SOLVE
8 Joseph D. Murphy, 306 West Church Street, Champaign,
9 Illinois 61820.

10 JUDGE ALBERS: Any others? Let the record show
11 no response. Thank you.

12 Before we go any further, if anyone
13 else has a cell phone, please put it on silent mode.

14 As far as preliminary matters today, I
15 have a few motions that came in yesterday or late
16 last week. That is the September 20 motion of SHOCK
17 for leave to file corrected rebuttal testimony
18 instanter, as well as the September 21, 2007, motion
19 of SHOCK for leave to file its second corrected
20 rebuttal testimony instanter. Any objection to those
21 SHOCK motions? Hearing none, they are granted.

22 There is also Ameren's September 24

1 motion for leave to file corrected testimony. Any
2 objection to those Ameren motions?

3 MR. STURTEVANT: Your Honor, I do have one
4 additional clarification, some additional changes to
5 Mr. Cruse's corrected testimony which I thought I
6 would at least alert everybody to at this time.

7 On page 8 of Mr. Cruse's corrected
8 testimony some changes were made to --

9 JUDGE ALBERS: Which exhibit number was that,
10 please?

11 MR. STURTEVANT: Yes, Mr. Cruse's surrebuttal
12 testimony, 18.0.

13 JUDGE ALBERS: What page?

14 MR. STURTEVANT: Page 8 beginning on line 173,
15 and that would change -- the 33 acres would change to
16 23.5.

17 And on line 174, 8 acres would change
18 to 7.5 acres.

19 And then turning to page 9, line 207,
20 the 4.2 acres would change to 2.3.

21 Then on page 10, line 223, a similar
22 change, 4.2 acres to 2.3 acres.

1 MS. VON QUALEN: What line number was that?

2 MR. STURTEVANT: On page 10 that was line 223.

3 MR. MURPHY: I think it is 222 on the draft I
4 have.

5 MR. STURTEVANT: 4.2 changed to 2.3 acres of
6 wetland. It is at the end of Question 16. That's
7 the change.

8 And, Your Honor, we would propose to
9 file a second corrected redline version of Mr.
10 Cruse's testimony.

11 JUDGE ALBERS: Okay. That's fine. We will go
12 ahead and grant the motion you submitted yesterday.
13 There is a lot of changes considered in that. And we
14 will be sure to make note of the second correction,
15 corrected title so to speak, when you introduce Mr.
16 Cruse's testimony.

17 Anything further on that matter?

18 MR. STURTEVANT: No.

19 JUDGE ALBERS: All right. Thank you. And the
20 last motion I have is yesterday's motion from SOLVE
21 seeking to file its corrected testimony. Any
22 objection to that? Hearing none, then SOLVE's

1 September 24 motion is also granted.

2 Are there any other preliminary
3 matters today?

4 MS. VON QUALEN: Judge, on behalf of Staff, we
5 have discussed with, I believe -- well, with Ameren
6 we have discussed putting into the record by
7 stipulation several, multiple, data request responses
8 that Ameren provided to us. I thought that perhaps
9 we could do that first off, just make a motion, and
10 then we will file the actual document later, if
11 that's all right with you. I have copies of the data
12 request responses here for the parties.

13 JUDGE ALBERS: Okay. Why don't you hand them
14 out and we will take a look at it.

15 (Pause.)

16 Other than Ameren has anyone else had a
17 chance to look at this?

18 MS. VON QUALEN: No.

19 JUDGE ALBERS: Would anyone like to take some
20 time to look at this before we consider admitting it?

21 I am taking the silence as nobody is
22 terribly concerned about it. Okay.

1 And there is no particular witness you
2 had in mind associated with this?

3 MS. VON QUALEN: Most of these would be from
4 Mr. Hughes. There is, I believe, one that would have
5 been Mr. Nelson.

6 JUDGE ALBERS: Okay. And you didn't want to
7 wait til those witnesses take the stand?

8 MS. VON QUALEN: I could if you would prefer
9 that.

10 JUDGE ALBERS: Why don't we just keep it with
11 the witness?

12 MS. VON QUALEN: Would you like me to do it
13 that way? It is a group exhibit with both. There is
14 one with Mr. Nelson and the remainder are Mr. Hughes.

15 JUDGE ALBERS: That's all right. Does anyone
16 have any objection then to the admission of this
17 joint Staff Cross Exhibit Number 1? No?

18 MS. VON QUALEN: I thought perhaps I would just
19 read into the record the data request responses that
20 they are so that that would be clear.

21 JUDGE ALBERS: Okay.

22 MS. VON QUALEN: These are -- Staff Cross Group

1 Exhibit 1 contains Ameren's responses to Staff data
2 requests DGK 3.01, DGK 3.02, FD 2.04, FD 3.01, FD
3 4.01, FD 5.01 Updated, FD 6.01, FD 6.03, FD 6.03
4 Attachment A which consists of two pages, FD 7.01, FD
5 7.01 Attachment A which consists of six pages, FD
6 8.01, FD 8.02 and FD 8.03. Staff moves for admission
7 into the record of each of those responses as Staff
8 Cross Group Exhibit 1 and would ask leave to file it
9 on e-Docket.

10 JUDGE ALBERS: Any objection? Hearing no
11 objection, then Staff Cross Group Exhibit 1 is
12 admitted via stipulation of the parties.

13 (Whereupon ICC Staff Cross Group
14 Exhibit 1 was admitted into
15 evidence.)

16 JUDGE ALBERS: Anything further before we turn
17 to any witnesses?

18 MR. KLEIN: On behalf of the Village of North
19 Utica, it was indicated that there was no cross
20 examination for our witness. I, therefore, have his
21 declaration. Would you want us to file that now, Tom
22 Guttilla? It was indicated in the conference call

1 there was no cross and you indicated you had no
2 questions for him.

3 JUDGE ALBERS: That's correct. Anyone have any
4 objection to taking care of that now? Okay, go
5 ahead, Mr. Klein.

6 MR. KLEIN: Do you want me to read it into the
7 record?

8 JUDGE ALBERS: Just describe it, yes.

9 MR. KLEIN: Declaration of Thomas Guttilla.

10 "Whereas I, Thomas Guttilla, state as follows: My
11 name is Thomas Guttilla. My address is 725 Hatchet
12 Canyon Drive, Utica, Illinois. I am the chairman of
13 the Utica Planning Commission. I make this
14 declaration in support of the admission of the
15 following prefiled responsive testimony filed
16 electronically with the Commission on March 30, 2007,
17 which consists of six pages with 97 lines of
18 questions and answers. If asked under oath or
19 affirmation the questions posed in my responsive
20 testimony, I would provide the answers reflected in
21 that testimony. I declare under penalty of perjury
22 the foregoing to be true and correct to the best of

1 my knowledge and current belief." And signed by
2 Thomas Guttilla on September 24, 2007. And I ask
3 that that be admitted into the record.

4 JUDGE ALBERS: Any objection?

5 MR. SHAY: Is it notarized?

6 MR. KLEIN: Yes, it is.

7 MR. FITZHENRY: Is it going to be part of the
8 record, Your Honor, the affidavit, the declaration?

9 MR. KLEIN: The testimony is attached.

10 JUDGE ALBERS: Do you have it identified as a
11 particular exhibit number?

12 MR. KLEIN: I can identify it.

13 JUDGE ALBERS: Why don't we call it -- I can't
14 recall, does the direct testimony itself have an
15 exhibit number on it?

16 MR. KLEIN: No, it does not. It just indicates
17 it is responsive testimony of Thomas Guttilla.

18 JUDGE ALBERS: Why don't we mark that as North
19 Utica Exhibit 1 and we will call the affidavit North
20 Utica Exhibit Number 1.1, or the declaration rather.

21 And the testimony itself is on
22 e-Docket, correct?

1 MR. KLEIN: That is correct.

2 JUDGE ALBERS: And will the declaration be on

3 e-Docket or are you just going to submit that in the

4 hard copy today?

5 MR. KLEIN: I was just going to submit the hard

6 copy today.

7 JUDGE ALBERS: That's fine.

8 MR. KLEIN: Do you want me to do that here or

9 do you want me to do that with the Clerk's office?

10 JUDGE ALBERS: You can leave that with me.

11 (Whereupon North Utica Exhibits

12 1.0 and 1.1 were admitted into

13 evidence.)

14 JUDGE ALBERS: Anything further from North

15 Utica?

16 MR. KLEIN: No, Your Honor.

17 JUDGE ALBERS: All right. Anything else before

18 we turn to Ameren's witnesses? All right. Hearing

19 nothing, no other preliminary matters, Mr. Sturtevant

20 will you be taking -- Mr. Flynn, who is taking the

21 lead here?

22 MR. FLYNN: Oh, I will. Would you like me to

1 swear in all our witnesses at once?

2 JUDGE ALBERS: Yes, please, if you would like
3 to.

4 MR. FLYNN: I think everyone is here except for
5 Mr. Hughes.

6 JUDGE ALBERS: Please stand and raise your
7 right hand.

8 (Whereupon the Ameren witnesses
9 were duly sworn by Judge
10 Albers.)

11 JUDGE ALBERS: Thank you. Gentlemen?

12 MR. FLYNN: Our first witness this morning is
13 Mr. Ward. We are ready to go with him.

14 RICHARD C. WARD
15 called as a witness on behalf of Petitioners, having
16 been first duly sworn, was examined and testified as
17 follows:

18 DIRECT EXAMINATION

19 BY MR. FLYNN:

20 Q. Good morning. Would you please state your
21 name?

22 A. Richard Compton Ward.

1 Q. Mr. Ward, were you asked by the Petitioners
2 in this case to prepare some testimony and exhibits?

3 A. Yes, sir.

4 Q. I would like you to refer to the document
5 previously marked as AmerenIP Exhibit 13.0 bearing
6 the caption Rebuttal Testimony of Richard C. Ward.
7 Is this a copy of testimony that you prepared for
8 this case?

9 A. Yes, sir.

10 Q. And is that testimony true and correct to
11 the best of your knowledge?

12 A. Yes, sir.

13 Q. In the course of that testimony did you
14 identify or sponsor two exhibits?

15 A. Yes, sir.

16 Q. I refer you to the document previously
17 marked as AmerenIP Exhibit 13.1. Do you see that,
18 sir?

19 A. No.

20 Q. May I approach?

21 A. Oh, okay, sorry, yes.

22 Q. I didn't mean to confuse you so early.

1 A. Or later.

2 Q. Was this exhibit prepared by you or under
3 your direction and supervision?

4 A. Yes, sir.

5 Q. Is the information reflected on it true and
6 correct to the best of your knowledge?

7 A. Yes, sir.

8 Q. I would like you to also refer or to refer
9 now to the document previously marked as AmerenIP
10 Exhibit 13.2. Do you see that?

11 A. Yes.

12 Q. And was this exhibit prepared by you or
13 under your direction and supervision?

14 A. It was not prepared by me. It was
15 something I requested and was provided by staff of
16 Ameren.

17 Q. All right. So it was prepared at your
18 request?

19 A. Yes, sir.

20 Q. All right. And do these photographs in the
21 exhibit accurately portray what they purport to
22 portray?

1 A. Yes, sir.

2 Q. I would ask you to turn now to the document
3 previously marked as AmerenIP Exhibit 20.0.

4 MR. MURPHY: Excuse me, Your Honor, I guess I
5 am a little slow to draw. I have an objection to the
6 prior question. When Mr. Flynn asked whether these
7 accurately portray what they were alleged to portray,
8 I guess I have an objection to lack of foundation.

9 JUDGE ALBERS: You are talking about 13.2?

10 MR. MURPHY: Yes. The witness testified that
11 they were prepared at his direction. There is no
12 evidence here that he has seen any of these.

13 MR. SCOTTI: Your Honor, Michael Scotti. I am
14 prepared to examine Mr. Ward I think on that on
15 behalf of the Illinois Resistors, and this is one of
16 the areas that I am going to go into. I believe that
17 Mr. Ward has prior testimony indicating that he has
18 never been to any of these places. And so I will
19 just -- I am going to address that in some of my
20 questions, that his answer to the last question, you
21 know, if he could still explain himself.

22 MR. MURPHY: Your Honor, I would be happy to

1 defer my objection to Mr. Scotti.

2 JUDGE ALBERS: All right, thank you. You have
3 a preview, Mr. Flynn.

4 MR. FLYNN: Sometimes the trailer is better
5 than the movie, so we will wait and see.

6 Where were we?

7 THE WITNESS: You asked about 20.

8 BY MR. FLYNN:

9 Q. Yes, I know. I would direct you to the
10 document previously marked as AmerenIP Exhibit 20.0
11 bearing the caption Surrebuttal -- I am sorry, 20.0
12 Corrected bearing the caption Surrebuttal Testimony
13 of Richard C. Ward. Is this a copy of surrebuttal
14 testimony that you prepared?

15 A. Yes, sir.

16 Q. And is this testimony true and correct to
17 the best of your knowledge?

18 A. Yes, sir.

19 MR. FLYNN: Judge, at this time I would move
20 for the admission into evidence of AmerenIP Exhibits
21 13.0, 13.1, 13.2, and 20.0 Corrected.

22 JUDGE ALBERS: All right. We will address

1 admissibility following the cross examination.

2 MR. FLYNN: Thank you. Mr. Ward is available
3 for cross examination now.

4 JUDGE ALBERS: Mr. Scotti?

5 MR. SCOTTI: Thank you, Your Honor.

6 CROSS EXAMINATION

7 BY MR. SCOTTI:

8 Q. Mr. Ward, do you have in front of you the
9 AmerenIP Exhibit 13.2 just referred to and objected
10 to by one of the intervenors?

11 A. Yes, sir.

12 Q. That's a series of five photographs, is
13 that correct?

14 A. Yes, sir.

15 Q. And is it also correct that you have never
16 been to any one of these locations where the photos
17 purport to be taken from?

18 A. That's correct.

19 Q. And you have no idea if these photos are
20 accurate representations of the areas they reflect,
21 is that also true?

22 A. I guess so. I mean, they look like

1 commonplace images of power lines in suburban
2 settings.

3 Q. But you don't know any of the
4 characteristics of these areas outside of the actual
5 photos, is that true?

6 A. I do not personally.

7 Q. And I believe your testimony anticipated
8 you would use these exhibits to show that power lines
9 can be built in harmony with development, is that
10 correct, to make a long story short?

11 A. That and to just show the ubiquitousness of
12 the power lines in suburban settings. They are
13 everywhere.

14 Q. But in these particular pictures you
15 couldn't possibly testify what came first, the power
16 lines or the development around them, could you?

17 A. I could not.

18 MR. SCOTTI: Your Honor, with those answers and
19 his admission that he has no idea if these pictures
20 accurately reflect the areas that they purport to
21 represent, I would ask that these exhibits be
22 stricken.

1 JUDGE ALBERS: Mr. Ward, could you direct me in
2 your rebuttal testimony where you discuss the 13.2
3 exhibit?

4 THE DEPONENT: Well, Your Honor, I am not sure
5 exactly. There is a reference, I know.

6 MR. FLYNN: Judge, may I?

7 JUDGE ALBERS: Yes.

8 MR. FLYNN: Page 6, line 108, I think is what
9 you were asking for.

10 THE DEPONENT: Lower half of the page.

11 JUDGE ALBERS: I see it. Thank you.

12 (Pause.)

13 Mr. Flynn, do you have a response?

14 MR. FLYNN: Yes. Mr. Ward is testifying here
15 as an expert and the Commission has typically allowed
16 expert testimony that relies on information provided
17 by others, whether it is general information out
18 there or whether it is specific information provided
19 by the entity that has retained the expert.

20 Here Mr. Ward has testified that he
21 requested photographs of examples of transmission
22 lines in the Company's service territory, and he was

1 provided those. Unless there is some further
2 allegation that somehow these photos were doctored by
3 Ameren and created in Photoshop, if anything this
4 goes to the weight to be afforded to these examples
5 and Mr. Ward's testimony that relies on them. It
6 doesn't really, under the Commission's traditional
7 practice, go to whether the photographs themselves
8 should be admitted into the record.

9 MR. SCOTTI: Your Honor, in brief response, it
10 is not our burden to prove that these photographs
11 have been doctored. It is Ameren's burden to prove a
12 foundation if they want these admitted into the
13 record. Being admitted into the record is different
14 from an expert looking at something and relying upon
15 it.

16 Given the witness's conflicting
17 testimony that, first, these pictures accurately
18 portray the areas in the photographs and, secondly,
19 that he has never seen the areas in the photographs,
20 I would ask that it be stricken and that this witness
21 not be allowed to base his testimony on these
22 photographs, based on the lack of foundation and

1 knowledge.

2 JUDGE ALBERS: I am looking at Mr. Ward's
3 testimony. It says at lines 108 and 109 AmerenIP
4 Exhibit 13.2 shows other examples of transmission
5 lines located in various types of development. And
6 it appears that is what the pictures are showing.
7 His testimony doesn't speak as to which was there
8 first.

9 But taking into consideration your
10 concerns about the surrounding area, I am going to
11 overrule the objection and give the pictures the
12 appropriate weight in light of the fact that we don't
13 know what's in the surrounding area, but they do show
14 what they show.

15 Do you have further questions?

16 MR. SCOTTI: Not with regard to the pictures.
17 I was just going to continue with questioning the
18 witness.

19 JUDGE ALBERS: No, that's what I mean. Please.

20 BY MR. SCOTTI:

21 Q. Mr. Ward, obviously you have a lot of
22 experience in land plan usage issues. But is it

1 correct that you have no prior experience providing
2 opinions regarding the siting of transmission lines
3 like the one at issue today?

4 A. That's correct.

5 Q. And is it also correct that you have no
6 experience advising clients, whether private or
7 public, as to impacts to value of properties related
8 to proximity of transmission lines?

9 A. Not in the specific situation of
10 litigation, no.

11 Q. Is it correct that you have never authored
12 any articles or written any documents regarding the
13 impact of hotwire transmission lines on property
14 values?

15 A. That's correct.

16 Q. You have prepared comprehensive plans in
17 the past, correct?

18 A. Yes.

19 Q. Approximately how many comprehensive plans
20 have you prepared?

21 A. Between a half dozen and a dozen.

22 Q. Any of those for municipalities in

1 Illinois?

2 A. None from municipalities in Illinois.

3 Q. With the half a dozen to a dozen
4 comprehensive plans that you prepared, did you also
5 assist in preparing zoning orders to implement those
6 plans?

7 A. I did.

8 Q. With regard to LaSalle County and the area
9 of the project involving the Ottawa-Wedron line
10 alone, how much time did you spend in Ottawa
11 traveling the area from the origin of the line to the
12 station in Weber?

13 A. I traveled it twice in one day. Once with
14 Mr. Roger Nelson was my first exposure in the area.
15 And then later in the day I drove it again with some
16 different kinks in my routing and checking out
17 different things about it. So it was all done on one
18 day.

19 Q. Approximately how much time did you spend
20 with Mr. Nelson on your first trip?

21 A. Well, we did the whole -- we did the PROTED
22 line and alternatives, and we did all of the

1 different lines in one day. And basically it was a
2 day and a half, sorry, I came in -- I was there a
3 good day and a half, right. And then I spent about
4 half of that day and a half by myself going back and
5 looking over things.

6 Q. Did you ever get out of your car or was it
7 basically a car trip?

8 A. Basically a car trip. But I am prone to
9 get out of the car if there is good reason to. I
10 mean, I am an avid walker. I was not on a hike. I
11 was on a car hike.

12 Q. Is this your first engagement to opine on
13 land use in LaSalle County?

14 A. Yes, it is.

15 Q. Is it your first time to LaSalle County as
16 a destination?

17 A. As a destination it probably is, yes.

18 Q. In general, based on the limited research
19 you did for this matter, would you agree that the
20 shorter a transmission line, that generally the less
21 impact on the area?

22 A. In theory that would be the case.

1 Q. And you would acknowledge that at least as
2 far as the Ottawa-Wedron line, that the route
3 proposed by the Illinois 71 Resistors is shorter than
4 the green route proposed by Ameren?

5 A. Slightly.

6 Q. By approximately a mile, is that correct?

7 A. That's correct. Impact, of course, is a
8 loaded word. It certainly abuts more land if it goes
9 a longer distance. But now what those impacts are
10 and how they affect the line adjacent do not
11 necessarily correspond with the land.

12 Q. I understand. I am just trying to get as a
13 general rule as a planner, the longer a transmission
14 line, the more impact --

15 A. The more potential impact, okay.

16 Q. Very good. Is it also true when you put a
17 transmission line into an existing utility corridor
18 that that application is very common?

19 A. The existing utility corridor or road
20 corridor or highway right-of-way, both are common.

21 Q. Well, my question was just as a utility
22 corridor, that it is common to put a transmission

1 line, a new line, in an existing utility corridor?

2 A. That is done.

3 Q. And that's advisable from a land use
4 planning perspective because you keep utilities
5 together in one area, correct?

6 A. Are you including a utility's rail lines in
7 the utility?

8 Q. I certainly am. Wouldn't you?

9 A. Not necessarily. It is like a highway
10 right-of-way. It is a right-of-way for
11 transportation. I don't call a railway a utility,
12 no. That's why I am questioning your question.

13 Q. Do you ever play Monopoly?

14 A. Not --

15 Q. Do you see those orange cards that say
16 "Advance token to nearest utility" and "Go to a
17 railroad"?

18 A. I have forgotten if it says that.

19 Q. Did you ever look up the word "utility" in
20 the dictionary?

21 A. No, I am just telling you my judgment that
22 a utility is not a railroad. But if you want to call

1 it that, that's fine.

2 Q. Would you call a roadway a utility?

3 A. No.

4 Q. Would you say there is a difference between
5 a railroad corridor and a roadway corridor?

6 A. Sure, there is a difference, and a sewer
7 corridor and an electric corridor and a gas pipeline
8 corridor. Those are all different things.

9 Q. When I read your rebuttal testimony, it
10 seemed like the very first observation you made about
11 the Illinois Resistors' proposed route is that it is
12 their attempt to push the problems associated with
13 transmission lines onto others in the community, is
14 that correct?

15 A. That was my feeling after reading a lot of
16 different testimony, yes.

17 Q. Do you believe that the City of Ottawa has
18 the same motive in favoring the Railnet line over the
19 green line?

20 A. The City of Ottawa has whatever motives may
21 be influenced by political opinion, public opinion.
22 I don't disparage their motives. But certainly what

1 I was reading up to that point did not show me that
2 there was an interest in weighing or balancing
3 impacts from one location to another.

4 Q. So you are okay disparaging the motives of
5 the Illinois 71 Resistors, but you are not
6 disparaging the motives of the City of Ottawa,
7 correct?

8 A. I can't do that, no.

9 Q. Any reason to believe that Ottawa's
10 opposition to the green line is based upon anything
11 other than an earnest effort to protect what they
12 perceive to be an important gateway into the
13 community?

14 A. I have read that. I understand that. I
15 contend there is a lot being lost by that focus.

16 Q. I understand. My question to you is very
17 simple. Is there any reason for you to believe that
18 Ottawa's opposition to the green line is based upon
19 anything other than an earnest effort to protect what
20 they perceive is an important gateway into the city?

21 A. I am not sure. I just don't know what all
22 their motivations may be.

1 Q. Fine. I am going to talk a little bit
2 about comprehensive land use plans in general. Would
3 you agree that the purpose of these plans, or one of
4 the purposes, is to provide direction for future
5 growth in a community?

6 A. That is correct.

7 Q. And that the plan establishes a community's
8 vision for development?

9 A. Certainly it should do that.

10 Q. And comprehensive plans are many times
11 followed up by detailed studies on particular areas
12 covered in that plan?

13 A. That is correct.

14 Q. And many times they are just a point of
15 beginning and they often do not include an
16 implementation strategy?

17 A. That's true.

18 Q. Implementation strategies are usually
19 followed up then with zoning ordinances, correct?

20 A. Yes, I would contend we do a lot of
21 ineffective planning in this country by not having
22 the implementation strategy inherent in the plan.

1 But your statement is correct. Most often there is
2 not enough emphasis on implementation in the plan.

3 Q. Are you aware of the City of Ottawa in
4 April of '05 entering into contracts to get more
5 detailed assessments of specific areas within the
6 comprehensive land use plan, specifically the
7 Illinois Study of the Route 71 Corridor?

8 A. I am not aware of that, no. There was no
9 manifestation of that in what I reviewed, I don't
10 believe.

11 Q. Would you agree that plans are a good way
12 to establish for proposed developments what the
13 social land use impacts will be for a project?

14 A. Certainly are. They need to be referenced,
15 that's for sure.

16 Q. And would you also agree that a
17 comprehensive land use plan is a good way to
18 anticipate a community's acceptance for a proposed
19 development?

20 A. Yes.

21 Q. Do you agree that Ottawa is the primary
22 community affected by the Ottawa-Wedron transmission

1 line along the green route?

2 A. Incorporated community, yes.

3 Q. It is also the largest community by size,
4 correct, in population?

5 A. Yes.

6 Q. Do you agree that it is important to
7 consider the Ottawa Comprehensive Land Use Plan in
8 determining which transmission route should be
9 selected by this body?

10 A. Absolutely.

11 Q. Did you read the Ottawa Comprehensive Land
12 Use Plan?

13 A. Cover to cover.

14 Q. Did you also read the Ottawa Zoning
15 Ordinance that implements the plan?

16 A. I have read parts of the Zoning Ordinance.

17 Q. Why didn't you read the Zoning Ordinance
18 cover to cover?

19 A. It didn't all apply to what we were dealing
20 with that I could see.

21 Q. When you looked at the Ottawa Zoning
22 Ordinance, was it clear to you that Route 71, at

1 least from Route 6 up to Highway 80, was intended to
2 act as a major gateway to the city?

3 A. I have heard the word "gateway" used
4 endlessly, but that doesn't tell me what that means.

5 Q. I didn't ask you what it meant. I asked
6 you if that's what the plan says.

7 A. I said the plan says that many times, yes.

8 Q. And Illinois Route 71 is one of the major
9 entry points into the city of Ottawa, correct?

10 A. That's correct. But it is naturally a
11 gateway. It already is a gateway.

12 Q. And the plan actually includes an area of
13 emphasis regarding this particular gateway which is
14 marked as Exhibit 10. Are you familiar with that
15 exhibit?

16 A. No, let me see.

17 Q. I am going to have handed to you a document
18 which has been labeled as Illinois 71 Resistors 2.3
19 exhibit which purports to be an exhibit from the
20 Ottawa Comprehensive Land Use Plan. I am going to
21 ask you if you have seen this document before and if
22 you are familiar with it.

1 MR. MURPHY: Your Honor, is it okay if I move
2 around a little bit, get a little closer to the
3 board?

4 JUDGE ALBERS: Yes.

5 BY MR. SCOTTI:

6 Q. I just want to make sure we are all on the
7 same page with where this area is located.

8 A. Yes.

9 Q. Is this in fact Exhibit 10 from the Ottawa
10 Comprehensive Land Use Plan?

11 A. Yes, sir.

12 Q. And the area shown in the color photograph,
13 is that in this area, I guess it is shown as S32 on
14 this aerial photograph that's on the --

15 A. Yes, basically around that interchange.

16 Q. And it shows there green buffer areas, is
17 that correct?

18 A. Yes.

19 Q. Is that consistent with the Ottawa Zoning
20 Ordinance to provide buffer areas along that roadway?

21 A. Yes.

22 Q. And then it also shows future development

1 that's anticipated in this area, doesn't it?

2 A. It does.

3 Q. On either side of Illinois Route 71?

4 A. Yes.

5 Q. And, in fact, the type of development is
6 hamlet residential neighborhoods, is that correct, on
7 either side?

8 A. And no commercial is being proposed,
9 either.

10 Q. This will go much quicker if you just
11 answer the questions I ask. Your counsel will have
12 an opportunity to get all the testimony they want
13 from you.

14 Is it correct that hamlet residential
15 is being proposed both east and west of Illinois
16 Route 71?

17 A. Yes.

18 Q. And that this is the area that's designated
19 as a major gateway green belt area into the city of
20 Ottawa in the plan?

21 A. Yes.

22 Q. And would you agree that as it stands now

1 that this is pretty much a green belt area?

2 A. I don't know what a green belt area means.
3 Please explain it to me. I asked that question.

4 Q. Okay. Well, who did you ask that question
5 of?

6 A. I mean I looked for it in the plan.

7 Q. Who did you ask that question of?

8 A. I didn't ask it of anyone.

9 Q. So as a land use planner --

10 A. I have heard the term all my life, all my
11 career. It is a very vague term. It means green
12 space.

13 Q. And what is green? Vegetation, correct?

14 A. Yes, and I address that in my testimony
15 very clearly.

16 Q. When you had a question about what Ottawa
17 meant about the green space in its comprehensive land
18 use plan, did you call the city planner and ask her
19 what it meant?

20 A. I did not.

21 Q. Did you call anybody, any civic leader that
22 assisted in putting together the Comprehensive Land

1 Use Plan?

2 A. I was taking the plan on its face value.

3 Q. So the answer is no, you did not, correct?

4 A. No.

5 Q. And if you were working for a private
6 client, aren't these the type of things you would do
7 before you went forward with a proposed development
8 in an area that is specifically designated in a
9 comprehensive land use plan?

10 A. This is what I thought. They wanted to
11 have a buffer along the roadway. I think that's a
12 noble objective. No problem with that. That could
13 be the power line right-of-way can contribute to
14 that.

15 Q. Sir, my question is simply if you were
16 working for a private client and they were trying to
17 determine whether to put in some abatement in the
18 land areas specifically delineated in the
19 Comprehensive Land Use Plan and you had a question as
20 to what the plan meant, wouldn't you call the city
21 planner to ask what her?

22 A. If I was actually developing the land

1 around this intersection, I would do that, yes.

2 There is no guidance in the plan about the power
3 line, none whatsoever. It is moot on the power line,
4 on locating power lines.

5 Q. This is going to go quicker if you answer
6 my questions. There was no question before you at
7 that time. The green space is not consistent with
8 the transmission power line, is it?

9 A. I don't know why it is inconsistent with
10 the power line. I know many power lines that are put
11 along with trails and pathways in green space and use
12 the same green space. I see that all over the
13 country.

14 Q. Well, it is not vegetation, is it?

15 A. Sure, there can be vegetation. Grass is
16 vegetation.

17 Q. That's correct. But the transmission line
18 is not vegetation?

19 A. The power line itself is not vegetation, of
20 course not.

21 Q. And that's what this designated is for,
22 green space, correct?

1 A. There is no conflict as far as I am
2 concerned

3 Q. Well, is it a conflict with any open space
4 which is also delineated in the plan?

5 A. No, it may be the only open space the city
6 is able to get along this roadway.

7 Q. That's rank speculation, isn't it?

8 A. That may be, but there is no other evidence
9 that there is a strategy to do that.

10 Q. You said there is no other evidence that
11 there is a strategy to treat open spaces, is that
12 what you testified?

13 A. That's what I understand.

14 Q. The section of the Zoning Ordinance you
15 read, didn't it allow for 100-foot setbacks along
16 this roadway?

17 A. A hundred foot setbacks, but not taking it
18 for zoning purposes.

19 Q. Didn't the Zoning Ordinance prevent any
20 building of any structure within that 100-foot
21 setback?

22 A. No, it didn't.

1 Q. Please, sir, didn't that ordinance say that
2 there was going to be no building of any structures
3 100 feet from the center line of this roadway that is
4 forming the major gateway into the city?

5 A. That's fine.

6 Q. And isn't that consistent with creating an
7 open space?

8 A. But that doesn't include a power line.

9 Q. Well, is a power line a structure?

10 A. Technically it is a structure.

11 MR. SCOTTI: Thank you. At this time I would
12 like to move the Illinois 71 Resistors Exhibit 3 be
13 admitted as a Cross Exhibit Number 1.

14 JUDGE ALBERS: Well, as long as it is in his --
15 as long as it is in Mr. Abel's testimony, do you
16 really need it as another exhibit?

17 MR. SCOTTI: No, I don't know whether it makes
18 a difference or not. I would just like it in the
19 record, and I guess if it comes in with someone else
20 --

21 MR. FLYNN: We pledge we are not going to
22 object to it when we get to Mr. Abel's testimony.

1 JUDGE ALBERS: Okay, thank you.

2

3 BY MR. SCOTTI:

4 Q. Did you have a chance, Mr. Ward --

5 Mr. Ward, did you have an opportunity to look at the
6 Ottawa City Board Resolution that formally opposed
7 Ameren's green route?

8 A. I did.

9 Q. Is that type of formal resolution by
10 communities a good way for you as a land use planner
11 to gauge community acceptance of a proposal?

12 A. I realize what it said.

13 Q. Just answer my question, sir. Is that a
14 good way to engage community acceptance?

15 A. It is certainly an expression of the
16 elected body.

17 Q. A reliable expression that's relied upon by
18 land use planners such as yourself?

19 A. Yes.

20 Q. And instead of -- well, withdraw that.

21 In your testimony you indicated that
22 the Comprehensive Land Use Plan, at least as you read

1 it, wasn't specific as to what it meant by open green
2 space in the green belt highway, is that correct?

3 A. Well, it wasn't specific what it meant in
4 terms of treatment of the frontage or a median or
5 whatever was going to be done along this roadway. I
6 mean, the general idea was clear, that they would
7 like to have this roadway lined or have -- that it
8 would have some green, have some landscape effect and
9 that can be done through requiring that property
10 owners when they develop their land landscape their
11 frontage. Well, that should be done anyway, frankly,
12 in front of any property.

13 But what the gateway idea meant is
14 totally undefined in the plan. And, you know, there
15 is a lot of different things that one can do. It is
16 naturally a gateway already. I mean, it is a
17 gateway. What does the City mean by making it a
18 gateway, I have no idea.

19 Q. But you didn't call and ask them, right?

20 A. I did not call and ask them.

21 Q. But now you know because the City filed
22 testimony, right, in this case?

1 A. That was after I wrote my testimony, I
2 believe.

3 Q. I understand. But you haven't changed your
4 opinions based on the City's testimony, have you?

5 A. No.

6 Q. So what the City had to say about their
7 comprehensive plan is irrelevant to you?

8 A. I wouldn't say that.

9 Q. But it didn't change your --

10 A. It didn't change my testimony.

11 Q. And the city planner, when she opined that
12 the Railnet route which goes along the existing
13 railroad corridor was more consistent with the
14 Comprehensive Land Use Plan than the green route, you
15 called her explanation unreasonable, didn't you?

16 A. I consider it unreasonable, yes, totally.

17 Q. And then when the mayor expressed concern
18 based upon his time and experience in Ottawa that
19 this transmission route would negatively impact that
20 green belt and would potentially have an impact on
21 tourism, you called his ideas farfetched, didn't you?

22 A. They are to me.

1 Q. Would you agree that Ottawa drafted the
2 Comprehensive Land Use Plan in order to make the
3 Illinois Route 71 as attractive as possible?

4 A. If that's the reason they drafted the
5 comprehensive plan?

6 Q. Let me restate my question, maybe I
7 misspoke. That the Comprehensive Land Use Plan
8 included provisions that were designed to make the
9 Illinois Route 71 gateway into the city as attractive
10 as possible?

11 A. I would say they were concerned with the
12 appearance of Illinois 71, yes.

13 Q. And that was so that a motorist entering
14 the city would find it desirable to visit?

15 A. Yes.

16 Q. And yet you acknowledge in your testimony
17 that transmission lines are not attractive and they
18 are not desirable, correct?

19 A. I don't think that they would detract from
20 this roadway when it is improved.

21 Q. But you did say in your testimony that
22 transmission lines were not attractive, correct?

1 A. In certain circumstances. You don't want
2 them on the main streets of residential
3 neighborhoods, that's for sure. I would agree with
4 that. I mean, I have said that clearly. This is a
5 highway. Highways are noisy, a lot of traffic,
6 eventually be congested as this area grows. I do not
7 see it as an inappropriate place for there to be a
8 power line.

9 Q. My question was really quite simple. You
10 testified that transmission lines were neither
11 attractive nor desirable, correct?

12 A. They are not. I said they are not
13 something someone seeks out to have in their front
14 yard.

15 Q. Now, you just mentioned about Illinois
16 Route 71 being affected by traffic. In your
17 testimony you compared Illinois Route 71 to I-80, the
18 interstate, correct?

19 A. Well, I didn't compare it but I mentioned
20 them together, yes.

21 Q. Well, you said that they both were
22 impacted, already impacted, by odor, noise, vibration

1 and visual impacts associated with highways, is that
2 correct?

3 A. Yes.

4 Q. Do you think that's true about Illinois
5 Route 71, that it is affected by odor?

6 A. Certainly not as bad as I-80.

7 Q. Did you smell any odors on that road?

8 A. No. But I would definitely not suggest
9 that anybody have homes facing on the roadway. I
10 think that would be bad land use planning. If the
11 City allows that, that's bad planning.

12 Q. Do you think it's appropriate land use
13 planning to have the entrance to a neighborhood, a
14 hamlet residential neighborhood, off of that road?

15 A. That's no problem as long as you have it
16 appropriately located with regard to traffic
17 movement.

18 Q. I am going to talk a little bit about the
19 poles and the wires and the visual impact of those,
20 specifically in the area of this green belted
21 gateway. Now, the line of poles that Ameren proposes
22 to use on the green route are planned to be put right

1 in this buffer area that's set up by the
2 Comprehensive Land Use Plan and Ottawa Zoning
3 Ordinance, correct?

4 A. Well, it would be a right-of-way along the
5 highway, yes.

6 Q. And that's right in the middle of the
7 buffer zone?

8 A. Well, you said the buffer zone was the
9 frontage of the property owners that's on the
10 property. I am assuming this is a separate piece of
11 ownership in front of that, or certainly an easement
12 over it.

13 Q. I am going to hand up to you a document
14 which was provided by Ameren to us during discovery
15 and it is aerial photographs of the green route in a
16 series of five sheets, and I am going to hand you a
17 copy and ask if you have seen it before. We are
18 going to mark it as Illinois 71 Resistors Cross
19 Exhibit Number 1. I have other copies if other
20 people need one.

21 (Whereupon Illinois 71 Resistors
22 Cross Exhibit 1 was marked for

1 purposes of identification as of
2 this date.)

3 BY MR. SCOTTI:

4 Q. Mr. Ward, is this a series of photographs
5 that you have seen in part of your work in preparing
6 your testimony for Ameren?

7 A. I have seen some slightly different
8 versions, I think a small -- larger scale, but
9 anyway.

10 Q. Does this appear to accurately reflect the
11 green route that is proposed by Ameren?

12 A. Yes.

13 Q. If there is no objection, I would like to
14 admit this as Illinois Resistors Exhibit Number 1?

15 MR. FLYNN: No objection, Judge.

16 JUDGE ALBERS: Hearing no objection, then
17 Illinois 71 Resistors Cross Exhibit 1 is admitted.

18 (Whereupon Illinois 71 Resistors
19 Cross Exhibit 1 was admitted
20 into evidence.)

21 BY MR. SCOTTI:

22 Q. Mr. Ward, as you follow the green route out

1 of Ottawa, the first page goes along the CSX Railroad
2 right-of-way, is that correct, until it crosses the
3 Fox River?

4 A. Yes, sir.

5 Q. And then it goes out Illinois 71 and it
6 crosses the intersection of Illinois Route 6 on the
7 second page of this document, is that correct?

8 A. Say that -- oh, crosses route -- okay,
9 yeah, yeah.

10 Q. You see it is kind of like in the center of
11 the page?

12 A. Yes.

13 Q. And it is from Illinois Route 6 to I-80
14 that the Comprehensive Land Use Plan sets up these
15 green space buffers, is that correct?

16 A. Yes.

17 Q. And so that would be from Route 6 -- I am
18 just going to point to the photograph so if anyone
19 has a question about where Route 6 is -- on the
20 second page, all the way up and then on the second
21 page the entire area of the green line up to where it
22 juts off to the upper left?

1 A. Uh-huh.

2 Q. And that's a yes?

3 A. Yes, sir.

4 Q. And so in the area -- if a motorist was

5 driving down Illinois Route 71, they would be almost

6 parallel with this line of poles, correct?

7 A. Yes, sir.

8 Q. And if they are coming from the north

9 heading south, the line of poles would be directly to

10 their right and then there would be a big wire bridge

11 crossing the road as the poles switch sides of the

12 road, correct?

13 A. Yes.

14 Q. And then the poles would continue on their

15 left all the way past Route 6?

16 A. Yes.

17 Q. And these poles are, what, a little more

18 than two feet in diameter?

19 A. Yes, and they are spaced about 400, 500

20 feet apart.

21 Q. And they have visible concrete foundations?

22 A. They have a visible foundation.

1 Q. And they have multiple wires on these
2 poles, correct?

3 A. Yes, and they will be high.

4 Q. Is it your testimony that the electrical
5 transmission lines that you just described are
6 consistent with the green image that the City wants
7 to invoke along this gateway?

8 A. I don't see them as having any major
9 detraction from that.

10 Q. But is it consistent with the plan?

11 A. I don't see it as inconsistent.

12 Q. But you acknowledge that the City of Ottawa
13 disagrees with you both formally and informally
14 through the testimony of their witnesses?

15 A. I do.

16 Q. Are you aware that the area that you just
17 described along Illinois Route 71 is one of the most
18 important areas to the community of Ottawa for the
19 potential for residential development?

20 A. I am sure that it is important for
21 residential development.

22 Q. Also, in addition to reading the Ottawa

1 Comprehensive Land Use Plan, did you read the
2 Comprehensive Land Use Plan of the County of LaSalle?

3 A. I did read it.

4 Q. And I notice from some of your testimony
5 that you acknowledge that the plan directs
6 municipalities to hide from view poles and wires, is
7 that correct?

8 A. Yes.

9 Q. And does the green route proposed by Ameren
10 hide from view poles and wires?

11 A. I read the county as speaking to poles and
12 wires within residential neighborhoods. You can't
13 hide -- you can't put underground this kind of a
14 power line.

15 Q. I understand. I am just trying to figure
16 out what those LaSalle --

17 A. Yes, I read the plan. I pondered what it
18 meant. It reads to me as addressing the issue of
19 power lines or distribution lines within residential
20 areas or for small businesses.

21 Q. So you interpreted the LaSalle County
22 Comprehensive Land Use Plan in the light most

1 favorable to your client Ameren?

2 A. I interpreted it based upon what I read.
3 Frankly, I don't have it in front of me and it has
4 been awhile since I read it. But I do address it in
5 my testimony.

6 Q. And you also interpreted the Ottawa
7 Comprehensive Land Use Plan in the light most
8 favorable to your client Ameren, didn't you?

9 A. No, sir, I did not do that. I interpreted
10 it the way I saw it.

11 Q. And it just happened to be the same way
12 Ameren sees it?

13 A. Absolutely. I don't like the inference.

14 Q. The route proposed by the Illinois 71
15 Resistors is substantially similar to the Railnet
16 route, correct, the red route?

17 A. Yes.

18 Q. That was one of the alternates proposed by
19 Ameren?

20 A. Yes, sir.

21 Q. And do you understand that the red route
22 was a viable route when Ameren put it together as one

1 of the possibilities to run this transmission line?

2 A. I don't know the history on that. You said
3 it was once a viable route. I don't know.

4 Q. Well, they put it together and proposed it
5 as one of the alternates, correct?

6 A. Well, I am sure it was weighed as an
7 alternate, yes.

8 Q. And they wouldn't put something up as an
9 alternate in your experience unless it would work?

10 A. Well, you put alternates up so you can
11 select the one that works best.

12 Q. But each of them would work, correct?

13 A. Each of them obviously had some viability,
14 yes.

15 Q. Now, the red route is put entirely in a
16 railroad right-of-way, is that correct, up until you
17 get very close to Wedron?

18 A. I believe that's correct, yes.

19 Q. And that entire route where the red route
20 is and which is materially consistent with the
21 Illinois 71 Resistors route, that whole area is
22 already impacted by a utility corridor?

1 A. It is impacted by the presence of the
2 railroad track.

3 Q. And the particular area that you take issue
4 with along that route, at least as far as I can get
5 from your testimony, is the potential impact to
6 people that live in the Dayton community, is that
7 correct?

8 A. Well, that's part of my concern. That was
9 not my only concern.

10 Q. I would not say that was your only concern;
11 you had many. I am just saying that seemed to be one
12 of your primary concerns?

13 A. That was a primary concern, yes.

14 Q. And do you have a copy we have marked as
15 Illinois Resistors Cross Exhibit Number 2 in front of
16 you? I don't think you do. I can give you my copy
17 and I am going to get another.

18 (Whereupon Illinois Resistors
19 Cross Exhibit 2 was marked for
20 purposes of identification as of
21 this date.)

22 Mr. Ward, the Illinois Resistors Exhibit

1 Number 2 is five pages, is that correct?

2 A. Yes.

3 Q. And if you look at page 3, there is some

4 houses along the red route line which comprise the

5 community of Dayton, correct?

6 A. Yes.

7 Q. This is an unincorporated municipality in

8 LaSalle County, is that true?

9 A. Yes.

10 Q. And the route impacts this community for

11 less than three-tenths of a mile, would you agree?

12 A. I haven't measured it, but if you measured

13 it, I accept your measurement.

14 Q. Does that seem approximately accurate based

15 on the car trip you took?

16 A. I don't know. I haven't measured it.

17 Q. Did you drive in the village of Dayton?

18 A. I drove all the streets in Dayton.

19 Q. All the streets that adjoin the railroad or

20 all the streets in the whole village?

21 A. In the whole village.

22 Q. Now, this area where this railroad runs,

1 this is kind of in a valley, isn't it?

2 A. Well, it is naturally a valley. It is the
3 river valley.

4 Q. Right. And there is bluffs on both sides
5 of it?

6 A. Well, bluffs or the land rises. It is not
7 always a bluff.

8 Q. There was a significant change in
9 elevation?

10 A. It varies, is all I am saying. It is not
11 always steep. In some places it is quite steep.

12 Q. And did you talk to anybody in Dayton when
13 you were there?

14 A. No, I did not.

15 Q. So you didn't ask anybody in Dayton whether
16 they were in favor of this route or not, did you?

17 A. I did not.

18 Q. So for all you know the people in Dayton
19 could be jumping with joy at the prospect of selling
20 a piece of their property to Ameren for this power
21 line?

22 A. I did not do any kind of community

1 assessment in terms of opinions. I didn't do that
2 with other sources, either. I didn't go out and talk
3 with people.

4 Q. But nobody from the village of Dayton has
5 entered an appearance in this case here, have they,
6 to voice any opposition to the red route?

7 A. I am not aware of it.

8 Q. By the way, did you drive up river and go
9 into the area that's shown, it looks like a little
10 pool?

11 A. That's a mill trace, yes.

12 Q. Did you drive under the timber bridge on
13 the railroad over there?

14 A. I did.

15 Q. Did you see those buildings that were in
16 that area? There were two abandoned buildings.

17 A. I don't remember specifically the abandoned
18 buildings, no. I did look at that area. I just
19 don't have a --

20 Q. Maybe this will refresh your memory. Did
21 you see an abandoned power plant in that area?

22 A. I did, I did. In fact, as I say, a mill

1 trace. It used to be, I assume, the electric power
2 generating location.

3 Q. So this village of Dayton is not only
4 already impacted by the railroad corridor, but it is
5 impacted by a prior electrical generating facility,
6 correct?

7 A. Well, yeah, I mean, that's historic. It is
8 like an old flour mill in terms of its historicity.
9 I don't see it as a major contemporary industrial
10 endeavor.

11 Q. I would agree with you that it is not a
12 major contemporary industrial endeavor. But it is a
13 former power plant?

14 A. It is a former power plant.

15 Q. And did you take any pictures of the houses
16 in Dayton that abut the rail line along the red line
17 route?

18 A. I actually did take some pictures. I don't
19 have them with me, but I did take the pictures. They
20 are still in my camera somewhere.

21 Q. Well, since you actually did take these
22 pictures, you probably understand what they reflect.

1 Would you say that the houses that are in close
2 proximity to the rail line are of very modest means?

3 A. I said that in my testimony. I said this
4 is a community of people of modest means.

5 Q. And several of them are built out of cinder
6 blocks and septic tanks behind the house?

7 A. That doesn't make them any less citizens
8 than anybody else. I just think that, yes, it is a
9 modest community.

10 Q. And the houses are modestly valued, I would
11 assume?

12 A. You would assume that, yeah.

13 Q. So if there is any impact to value, it
14 would be less to these homes as to other homes that
15 are in better condition, is that correct, and well
16 populated?

17 A. Well, the situation here is this power line
18 and its foundations, occurring every 400 feet or so,
19 would be built right down there next to these houses.
20 I mean, they would be in there. I wouldn't say front
21 yard/back yard because I don't know where they would
22 be. But they would have to be right there in close

1 proximity to these homes. Cheap project home, I
2 guess is what I would call it.

3 Q. Aren't they intending it to be put in the
4 railroad's right-of-way?

5 A. I don't think entirely. There has to be
6 some additional right-of-way for large sections of
7 this.

8 Q. Did anybody show you along that route what
9 areas of the poles would be in the right-of-way and
10 what area of the poles would be outside of the
11 right-of-way?

12 A. No, not really.

13 Q. So you are not able to testify on where the
14 poles would be along the red route at all?

15 A. Not in detail, no. I just saw it as very
16 crowded and very much right down on these people.

17 Q. And that's an active train line, too, is
18 that your understanding?

19 A. It is an active train line but not a
20 frequently used train line.

21 Q. How did you determine it wasn't frequent?

22 A. I asked. I think I asked Roger Nelson,

1 frankly. I think we talked about it.

2 Q. Is that the type of information that you
3 rely upon as an expert, asking your party?

4 A. I didn't never see a train there on the day
5 that I was there off and around it.

6 Q. But you were only there for -- how long
7 were you in Dayton?

8 A. Well, not just in Dayton but along this
9 line, probably four or five hours.

10 Q. So you don't know if it is frequent or
11 active; maybe you were just there on an off day,
12 right?

13 A. Could have been.

14 Q. You also testified it was slow moving. I
15 was wondering how you knew that if you didn't see a
16 train.

17 A. I just couldn't imagine that the train
18 would be anything but slow moving through that
19 circumstance. I do know trains.

20 Q. So is that another area of expertise you
21 have, train speed movement along railroad
22 right-of-ways?

1 A. Looking at it the train is so intimate to
2 the surroundings here and it is so tight, it is
3 coming right into the urban area, I have to believe
4 those trains are going very slow. I live in a town
5 in southern Illinois which has main line trains that
6 go through it, and they go through it pretty slow
7 when they go through town.

8 Q. Are there any curves in this area?

9 A. There is a big curve down by the river, I
10 mean where the river meets the Illinois.

11 Q. And your proposed route, it is pretty
12 straight through there, isn't it?

13 A. It is straight, yeah.

14 Q. And if you take our Illinois Resistors
15 Exhibit Number 2 and if you look at the second page,
16 there is the red line appears, at least on the first
17 part of the second page, to be shielded from
18 communities by a wooded area, is that correct?

19 A. That is correct.

20 Q. And then as it goes further up, as it
21 approaches I-80 at the top of the second page, it's
22 the railroad and the transmission lines would be

1 sandwiched in between two wooded areas, is that
2 correct?

3 A. Well, it is my understanding there has to
4 be fair amount of taking of land and clearing of land
5 to allow for the power line through those trees.

6 Q. Do you have any idea whether that taking or
7 clearing that you are talking about is going to
8 change the effect of sandwiching the poles and the
9 railroad between two growths of trees?

10 A. No, it will be between two growths of trees
11 except it will take a lot of natural tree cover out.

12 Q. But it will hide the poles and wires,
13 correct, to a certain extent?

14 A. Hide them, yes. It will provide some
15 screening, yes.

16 Q. And then as it is crossing 80 and moving
17 towards the Dayton area, it is also screened by trees
18 on either side of the railroad, as you move onto page
19 3, is that correct?

20 A. Yes, sir.

21 Q. And then when it leaves the village of
22 Dayton, it is screened by -- and I believe in front

1 of that, the former power plant, there is a bluff
2 there?

3 A. Yes, it is steep in those sections there,
4 yes.

5 Q. And so there is a lot of screening of the
6 transmission line in that area, too, correct, because
7 of the bluff, at least the areas west?

8 A. A lot of the tree cover that provides the
9 screening is being taken out, would have to be taken
10 out by the power lines.

11 Q. Well, when you use that word a lot, it is
12 really meaningless, right, because you have no idea
13 what detail --

14 A. My understanding is 50 to 100 feet of
15 width, depending on the existing.

16 Q. What's your understanding of the existing
17 railroad right-of-way?

18 A. Probably about 50 feet, 40 or 50.

19 Q. So you are saying it is going to be another
20 50 to 100 feet in addition to that?

21 A. That's my understanding.

22 Q. So you are assuming 150 to --

1 A. No. I said 50 to 100 feet of additional
2 right-of-way.

3 Q. In addition to the existing railroad?

4 A. Right.

5 Q. Or is that included?

6 A. In addition to the existing railroad.

7 Q. So if you have a 50-foot railroad
8 right-of-way, you are assuming that this is going to
9 be an additional 100 or 50 so it is going to be
10 between 150 and 100 feet.

11 A. Fifty feet is what I understood to be the
12 minimum and maybe more up to a hundred. I don't know
13 where exactly that would take place.

14 Q. And then as you go onto the fourth page of
15 the red route --

16 A. I mean, the railroad isn't concerned about
17 every once in awhile a tree falling down. A power
18 line is real concerned about it, so they have got to
19 have a nice, clear, wide location.

20 Q. You don't have a question pending, sir.

21 A. Right.

22 Q. Your counsel will have plenty of time. As

1 the railroad goes onto page 4, it approaches an
2 industrial area. In fact, this area is zoned
3 industrial, is that correct?

4 A. You mean the quarry?

5 Q. Correct, the area on Section 16?

6 A. Yes, sir.

7 Q. And would you agree that industrial zoned
8 areas are generally appropriate for transmission
9 lines?

10 A. I don't see any problem in that area.

11 There are no trees, either.

12 Q. That is correct. It is an industrial area,
13 though.

14 A. Right.

15 Q. And there is not a lot of people in this
16 industrial area that transmission lines need to be
17 swept over?

18 A. That is correct.

19 Q. And as the transmission line crosses the
20 river again, this is in an area that is an industrial
21 area, correct, not one that would be likely to be
22 visited by visitors and such?

1 A. There is a fair amount of tree cover that
2 has to be destroyed but, yes, it is not residential
3 for sure.

4 Q. But one of the key things about the tree
5 cover that has to be destroyed, at least along the
6 Railnet route, is that there is already a separation
7 in the woods caused by the railroad track, right?

8 A. There is that but it is amazing how you
9 don't feel it as you walk through that area. It is
10 almost a canopy of trees and it feels very wooded and
11 it is not -- it is quite comfortable. It is not
12 going to be comfortable when you put this power line
13 there.

14 Q. Again I misunderstood. I thought you never
15 walked this area.

16 A. Not in the natural sense of the trees.

17 Q. Didn't you say you never got out of the car
18 in this area?

19 A. Well, I didn't walk the country side, no.
20 But I got out several places and looked around. I
21 didn't say I didn't do that. I just said I didn't
22 walk the land.

1 Q. Probably a misunderstanding on my part.

2 And then once we cross the Fox River, would you agree
3 that the red route and the green route are
4 substantially similar in their impact to this area?

5 A. Yes.

6 Q. Would you agree that comprehensive land use
7 plans, whether it be Ottawa's or LaSalle Counties,
8 are generally designed to benefit the community as a
9 whole and not individual portions?

10 A. Should be.

11 Q. Now, I know that as part of your testimony
12 you said that it is not always true that development
13 is consistent with the Comprehensive Land Use Plan?

14 A. I said that over time the market place will
15 generate likely differences from what's anticipated
16 within the land use plan. And either the city will
17 adapt its plan to that or there will become major
18 confrontations or they will lose opportunities.

19 Q. I understand. But the nice thing about
20 Ottawa's Comprehensive Land Use Plan, at least with
21 regard to the Illinois Route 71 corridor, is it does
22 appear to be developing consistent with the plan,

1 correct, with the hamlet residential neighborhoods
2 being put in adjacent to the Fox River?

3 A. It is a proposal for development that would
4 fulfill as part of what the plan anticipated.

5 Q. And there are actions taken in furtherance
6 of that proposal, correct, like the purchase of land,
7 are you aware of that?

8 A. Yes.

9 Q. Are you aware of negotiations with the city
10 to annex that area through the testimony of the city
11 planner?

12 A. I understand that.

13 Q. So this is not just -- this is a proposal
14 where people put their money where their mouth is.
15 They have bought the land, they are engaged in
16 communications with the City to make it happen, true?

17 A. Yes.

18 Q. And did you also -- were you also familiar
19 with the size of that development?

20 A. If I recall, it was 400 acres and 1200
21 homes and about 30 acres of commercial.

22 Q. That's correct. Now, I am going to talk a

1 little bit about the impact or potential impact of
2 transmission lines to residential home values. Now,
3 it is my understanding from reading your testimony
4 that you think that very rarely will transmission
5 lines impact the value of residential homes. Is my
6 understanding of your testimony correct?

7 A. I think that's a little incorrect. I think
8 it has a lot to do with how the power lines are
9 located in relationship to the homes.

10 Q. How about if they are located in close
11 proximity to the homes?

12 A. I have seen very valuable homes and with
13 major power lines almost in their back yards,
14 unaffected by the power lines, and the homes selling
15 in the neighborhood at equal prices regardless of
16 their association or closeness to a power line.

17 Q. When you say in your opinion -- and you are
18 also a real estate broker, is that correct?

19 A. I am.

20 Q. Is that rule generally true, that
21 transmission lines even though they are in close
22 proximity to houses don't affect the value of

1 residential property?

2 A. Again, it depends very much on how they are
3 sited. I have said clearly in my testimony that I
4 believe they should not be on the front street in
5 front of the houses going down the street. That is a
6 no-no. If they are behind the homes in a green
7 right-of-way that's parallel to the back yards of
8 homes, I think they could have negative -- I mean,
9 negligible, if any, negative impact on the
10 properties, property lines.

11 If it is a brand new subdivision, it
12 stands out clearly. As time goes on, people plant
13 plants. Brand new subdivisions are barren looking
14 anyway. As time goes on -- street poles look barren.
15 But, anyway, as time goes on landscaping takes over
16 and a softness, softening effect takes place and the
17 power lines pretty well go away in that context, go
18 away in people's consciousness.

19 Q. So it is your testimony now that it just
20 depends on where the power lines are situated with
21 regard to the houses, correct?

22 A. It has a lot to do with it, yes.

1 Q. Sir, do you have your testimony in front of
2 you? I am looking at your rebuttal testimony. I am
3 going to direct you to page 6.

4 A. Rebuttal testimony or surrebuttal
5 testimony?

6 Q. Rebuttal. Page 6, lines 109 through 112.
7 I am going to read that line and I want to make sure
8 I am reading it correctly. "In reality, the existing
9 75 to 90 foot tall poles or towers carrying
10 transmission lines and located in average about 450
11 feet apart poses minimum, if any, negative impacts on
12 adjacent properties, regardless of their use." Is
13 that your testimony?

14 A. Wrongly spoken, yes. I talked elsewhere
15 about the question we just discussed.

16 Q. Well, who is your employer now? Not in
17 this case; I know Ameren has retained you. But in
18 general who is your employer?

19 A. I am employed by Zimmer Real Estate
20 Services of Kansas City.

21 Q. And prior to that you were a principal in
22 your own firm, is that correct, called Developmental

1 Strategies, Inc.?

2 A. Two firms, both of which I started and was
3 the primary owner of at various times. One was
4 called Team 4 and that was for 20 years, and then
5 Development Strategies for the last 20 years.

6 Q. So you were a principal in Development
7 Strategies, Inc., for the last 20 years?

8 A. Yes.

9 Q. And you would consider them a very reliable
10 and credible source of information regarding
11 residential real estate brokers and sales people?

12 A. Yes, we did not do brokerage. I have never
13 done brokerage. I have maintained my license. I am
14 not an active broker. Development Strategies was an
15 appraisal practice, but I did not do appraisal work.
16 We had three people who did commercial appraisals.

17 Q. I am going to show you a copy of a
18 document, drafted or put together by a gentleman
19 named Michael Goeke, G-O-E-K-E-M-A-I. Do you know
20 Mr. Goeke?

21 A. I know him very well.

22 Q. How do you pronounce that? Did I pronounce

1 his last name right?

2 A. Goeke, you got it.

3 Q. And MAI designation, what is that?

4 A. I don't think he maintains his designation.

5 That means Member of the Appraisal Institute.

6 Q. Well, I am going to show you what I am
7 marking as Illinois Resistors Cross Exhibit Number 3,
8 and it purports to be a compilation of a survey put
9 together by him entitled "Value of Residential
10 Property Approximate to High Voltage Overhead
11 Electrical Transmission Lines," and I am going to ask
12 you if you have ever seen that before.

13 (Whereupon Illinois 71 Resistors
14 Cross Exhibit 3 was marked for
15 purposes of identification as of
16 this date.)

17 A. No, I have not seen it.

18 Q. But you do recognize that it purports to be
19 a survey conducted by Developmental Strategies, Inc.,
20 of St. Louis, Missouri, correct?

21 A. Development, not developmental.

22 Q. Thank you for that correction.

1 A. Yes.

2 Q. And that if you look on about four pages
3 into it, there is a Development Strategies, Inc.,
4 business card?

5 A. Yes.

6 Q. Or at least logo by your former principal
7 and partner, correct?

8 A. Yes.

9 Q. And then if you look at the very next page
10 -- by the way, I assume he is pretty good at his job,
11 isn't he?

12 A. Yes, he is basically a real estate
13 developer today.

14 Q. And if he put something together, a
15 document of this kind of magnitude, you would tend to
16 rely on it or at least give it credibility, true?

17 A. Certainly give it credibility.

18 Q. Would you agree that on the very first
19 page, at least the first numbered page, it reads,
20 "Value of residential property proximate to high
21 voltage overhead electric transmission lines," do you
22 see that?

1 A. Yes.

2 MR. FLYNN: I am going to object. I didn't
3 think we were done with the foundation section but
4 apparently we are. The witness has testified that he
5 has never seen this document before. Mr. Goeke is
6 not a witness in this case. No witness has offered
7 or otherwise identified this document. So where are
8 we going?

9 We are now about to ask the witness
10 about a document that he has never seen that he does
11 not recall. And we are going to have him interpret
12 it? We are going to have him validate what purports
13 to be results? I don't know. There is no foundation
14 adequately established here and it is completely to
15 ask him about it.

16 MR. SCOTTI: In brief response, Your Honor,
17 what I intend to do is ask Mr. Ward about a document
18 which he has already said is credible. It's the type
19 of document he relied upon.

20 MR. FLYNN: I am sorry--

21 JUDGE ALBERS: Let him finish.

22 MR. SCOTTI: It was produced by his very own

1 company and a company he owned. So in essence it is
2 inconsistent with his testimony in this case. So in
3 part it is to impeach and in part it is an admission
4 by him that -- or at least the company he owned, this
5 is not something he was just an employee of; he owned
6 this company at this time.

7 And this document, so I can tell the
8 Court what it is, it says over 75 percent of all the
9 real estate people and brokers that they had, they
10 surveyed, their own clients, 75 percent said that if
11 you have homes in proximity to high voltage overhead,
12 their property values would be somewhat negatively
13 affected or very negatively affected. And this
14 contradicts his testimony which says, as I cited on
15 lines 109 to 112, saying that there will be minimal,
16 if any, direct negative impacts.

17 And I would like this witness to
18 explain the difference, to see if he can explain
19 away, the prior work product of his company and how
20 this doesn't impeach his testimony that industry
21 professionals strongly disagree with his statements.

22 JUDGE ALBERS: Before you respond, Mr. Ward,

1 isn't it true that you owned Development Strategies,
2 Inc., when this survey was prepared?

3 THE WITNESS: That is correct.

4 JUDGE ALBERS: Go ahead, Mr. Flynn.

5 MR. FLYNN: Well, I very strongly suggest that
6 Mr. Scotti have his hearing checked. Because at no
7 time did the witness indicate that Mr. Goeke did this
8 or that Mr. Goeke's work product here is reliable. I
9 don't see any verification that Mr. Goeke did this.
10 I see a photocopy of a business card on page 4 or
11 whatever.

12 This is a document that the witness
13 has no familiarity with. And I know Mr. Scotti wants
14 to leap ahead and say it is self-validating because
15 the conclusions are very important to my case, but
16 there is a fundamental foundation problem. There is
17 not even an affidavit here from Mr. Goeke saying,
18 yeah, I did this, this was mine, that you could even
19 show Mr. Ward and say is this Mr. Goeke's signature.
20 There is none of that. There is a photocopy of a
21 business card. That is not proper foundation before
22 this Commission or any other forum.

1 MR. SCOTTI: In belief response, Your Honor,
2 there is more authenticity to this document than what
3 he proposed. If you look at the very bottom of each
4 and every page in this document, it says Development
5 Strategies, Inc., April-May 1995.

6 In addition, I have a court case here
7 that stands for the general proposition that an
8 expert may be cross-examined regarding materials he
9 neither reviewed nor relied upon if the cross
10 examination is for the limited purpose of impeaching
11 the expert by asking him whether other facts, data,
12 or opinions and conclusions would alter his opinion.

13 So what I would like to do is ask him
14 whether this piece of work alters his opinion. It
15 either will or it won't, and then we will move on.

16 MR. FLYNN: Then I withdraw my objection if
17 that's the question that Mr. Scotti is going to ask.
18 I hope he likes the answer.

19 JUDGE ALBERS: All right. Objection is
20 withdrawn.

21 BY MR. SCOTTI:

22 Q. So, Mr. Ward, do you see on the first

1 numbered page which shows that 51.8 percent of the
2 real estate professionals interviewed believed that
3 residential property proximate to high voltage
4 overhead electric transmission lines would very
5 negatively impact the property value?

6 A. I see that.

7 Q. And that another 23.8 say that it will
8 somewhat negatively affect the property value, do you
9 see that?

10 A. I see it.

11 Q. Does that change your opinion or at least
12 the statement in your testimony which says that the
13 transmission line in this particular case poses
14 minimal, if any, direct negative impacts on adjacent
15 properties regardless of their use?

16 A. No.

17 Q. But I guess you would just agree then that
18 other professionals, at least 75.6 of your former
19 clients, disagree with your opinion?

20 MR. FLYNN: Objection. That goes beyond the
21 purpose that Mr. Scotti just said. It was clear that
22 this was not going to be used to assert or establish

1 the truth of what's asserted herein, but rather to
2 see whether this sort of data would change the
3 witness's testimony.

4 Now Mr. Scotti's questions assumes
5 that this is true and is trying to establish that for
6 the record. And if that's the case, then I go back
7 to my original objection.

8 MR. SCOTTI: It is a document which -- well,
9 let me see if I can provide a little more foundation.

10 Q. Mr. Ward, in looking at this document do
11 you have any reason to believe that it wasn't
12 compiled by your company you formally owned,
13 Development Strategies, Inc.?

14 A. I assume my company did this, that it was
15 done by the company. I have no idea who the client
16 was. It is not evident here. I have no idea who the
17 respondents were, either. You keep saying my -- or
18 it was our clients who responded. I have no idea
19 that that's the case. I don't know who they were.

20 By the way, we didn't do residential
21 appraisal work. And typically our clients were never
22 home builders and certainly not residential brokers.

1 Q. All I can tell you is that what I know
2 about this is it appears to have been produced by
3 your company and this chart is a mean, an average,
4 taken from 167 forums.

5 MR. FLYNN: Is Mr. Scotti going to be sworn in
6 before he finishes his testimony?

7 JUDGE ALBERS: He is not making his testimony.
8 He is just making his argument here.

9 BY MR. SCOTTI:

10 Q. And you can see the survey that was sent to
11 clients of your firm, correct?

12 A. To somebody. I didn't say it was clients
13 of our firm. Does it say that? Somebody obviously
14 got a survey done.

15 Q. All I can say is that it appears to be real
16 estate professionals. And to the extent -- well, I
17 will just go back to my original question. If you
18 look at the cover of this document, it appears to be
19 a survey of residential real estate brokers and sales
20 persons.

21 A. Okay.

22 Q. Do you see that at the top?

1 A. And I just finished saying we typically did
2 not have real estate brokers or sales persons as our
3 clients under any circumstance.

4 So I don't -- you keep saying our
5 clients. So I don't know what this was done for. I
6 don't know who -- the cover page doesn't say who the
7 client is. I don't know whether it was deleted or
8 where this came from. I really am surprised I am not
9 aware of it, but I am not. I have no idea what
10 standing it had, whether it was used for some other
11 kind of litigation. I can't tell you. It is beyond
12 me. But our clients were typically not residential
13 real estate brokers and sales persons, period.

14 Q. Well, then I will just use it for the
15 original purpose. You said it didn't change your
16 opinion and I will just move on.

17 JUDGE ALBERS: All right. That's a good idea.
18 Put it that way.

19 BY MR. SCOTTI:

20 Q. With regard to the transmission line, do
21 you recall we were talking about that the
22 transmission line would either be parallel to the

1 right or to the left of a person driving into or out
2 of Ottawa on Illinois Route 71?

3 A. Depending on which direction they are
4 going.

5 Q. Correct. It would be -- regardless of
6 which direction you are going, you could have lines
7 to the left and to the right on different portions of
8 the drive?

9 A. Correct.

10 Q. And then regardless of which way you go you
11 are going to have a wire bridge going across the
12 roadway?

13 A. Well, wires catenary will cross the road.
14 I don't know what you mean by a wire bridge.

15 Q. A string of wires going from one side of
16 the road to the other.

17 A. There will be wires crossing the road, yes.

18 Q. And are you familiar with something known
19 as the wall effect and what Mr. Abel, Bill Abel, in
20 his testimony referred to as the China wall effect
21 when you look at a line of transmission poles. Have
22 you ever heard that term used before? This is a yes

1 or no question.

2 A. No, no.

3 Q. You have never heard of the wall effect
4 leading off China?

5 A. For power lines?

6 Q. Yes, sir.

7 A. No.

8 Q. So you don't ever have a personal
9 experience of looking at a row of power lines, and
10 even though they might be 200 to 400 feet apart, when
11 you are looking at them in a line they appear to make
12 a solid wall?

13 A. Well, of course. I mean, that's
14 commonsense. If you put them in line, look at one,
15 the one is going to block the others visually. You
16 are going to see the one as a line.

17 Q. And that's the viewpoint that motorists
18 coming into and out of Ottawa will be impacted with
19 on Illinois Route 71?

20 A. Hardly.

21 Q. Well, they are going to be driving parallel
22 to this row of poles, correct?

1 A. They will see poles.

2 Q. A line, correct?

3 A. But they are not going to look like a wall.

4 And I really just react against that assertion

5 strongly.

6 Q. Given your background in real estate would

7 you agree that in general property that fronts on

8 highways such as Illinois Route 71 is more valuable

9 than, say, interior land?

10 A. Yes. I mean, that's why I can't quite see

11 how the City can expect to get people to give away

12 100 feet of frontage of the most valuable land and

13 turn it into green space without paying them.

14 Q. You kind of opened up a bag of worms there.

15 Don't they have a zoning ordinance, a law, that says

16 what the property owners can and can't do with their

17 land in the first 100 feet from the center line?

18 A. I know what it says.

19 Q. Doesn't that answer your question about how

20 the City can do it?

21 A. We will see what happens as time goes on.

22 That's a regulatory taking in my mind.

1 Q. That's a legal opinion on your part, right?

2 A. I work with eminent domain all the time. I
3 am an expert on that topic.

4 MR. SCOTTI: I would just request that any
5 testimony from this witness, whether in the documents
6 or on the stand, that propose to say what the law is
7 regarding enforceability zoning ordinances be
8 stricken or disregarded.

9 MR. FLYNN: Then don't ask him whether there is
10 a law on this.

11 JUDGE ALBERS: I am not going to strike it.
12 But I will understand, I mean, just a given, he is
13 not an attorney and he is not able to give an
14 opinion, and attorneys may have different views.

15 BY MR. SCOTTI:

16 Q. Mr. Ward, in your profession you have to
17 read zoning ordinances, correct?

18 A. Yes.

19 Q. And it's just a simple statement?

20 A. And write them. I have written many.

21 Q. And the Zoning Ordinance of Ottawa says
22 that property owners have to not build any structures

1 in the first 100 feet from the center line along this
2 frontage road?

3 A. And by structures, if the power line is a
4 structure so is the light pole. I mean, that's where
5 we were when you came to structures before.

6 Q. But that's what the Zoning Ordinance says,
7 right, no structures within 100 feet of the center
8 line?

9 A. I question whether or not that's what it
10 really means in terms of structures, utility poles or
11 light poles.

12 Q. Well, with regard to light poles, those are
13 street scapes, correct, that are very carefully
14 considered, lighting, signage, things like that?

15 A. It depends. If they are not carefully
16 considered, I mean, if the highway department lights
17 the streets, they are going to put their standard
18 pole there.

19 Q. Would you agree that to the extent there is
20 visual impact from the transmission lines, that it
21 will be much greater along Illinois Route 71 than
22 along the Railnet line, the red line?

1 A. No, I think it is going to be profoundly
2 invasive along the rail line because of the natural
3 setting and the river valley and everything in the
4 comprehensive plan that speaks of protecting that
5 area from intrusions by buildings and organization,
6 keeping it natural, conserving it. That's the most
7 powerful thrust of the Comprehensive Plan.

8 Q. Was there any part of the Plan that talked
9 about conserving the land between the Railnet and the
10 Fox River?

11 A. It didn't specifically speak to that. I
12 don't think it addressed the river.

13 Q. It spoke specifically to the other areas
14 like the route to Starved Rock, correct?

15 A. I don't think it mentioned Starved Rock,
16 but it speaks generally of the valley, though, of the
17 Fox River...

18 Q. Do you know where.

19 A. .. to protect it.

20 Q. I am sorry to interrupt. Do you know where
21 on the map Starved Rock is in relation to these power
22 lines?

1 A. No, I don't.

2 Q. It also spoke about preserving the routes
3 to the I&M Canal, correct?

4 A. I don't remember that, but it may have.

5 Q. Buffalo State Park?

6 A. I don't know all these places, sorry. But
7 it speaks in many broad generalities about the
8 valley.

9 Q. About protecting open spaces?

10 A. About protecting the valley, not just those
11 places you are reiterating.

12 Q. But you would agree that more people,
13 physically more people, would see the line on
14 Illinois Route 71 than the line that is going to be
15 screened between the trees and running through the
16 valley along an existing railroad corridor?

17 A. I won't deny more people will see it.

18 Q. And you won't deny that the community of
19 Ottawa has determined in a formal way that it would
20 rather have the transmission line along the railway
21 than Illinois Route 71?

22 A. In the unincorporated town of Ottawa.

1 Q. Three-tenths of a mile, right?

2 A. That's the community. That's a focused
3 community, a cluster of people and homes. It is more
4 concentrated than anything that's along Illinois 71
5 in terms of residences, far more concentrated.

6 Q. Maybe now with this future development that
7 we have already talked about it is going to be 1200
8 homes versus the ten homes in Dayton, correct?

9 A. There is plenty of opportunity. Those
10 homes should not be built facing the roadway. We
11 have all agreed on that. Those homes shook be
12 internally oriented away from it. The diagram that's
13 on here suggests that as well. I would certainly not
14 suggest that homes should face onto Route 71. That
15 would be terrible planning. Or face the power line
16 along Route 71. Everything should be done to avoid
17 that.

18 Q. I just have a couple of closing questions.
19 I just wanted you to acknowledge for the record that
20 the Ottawa community has made a clear choice that it
21 would prefer the Railnet right-of-way route over the
22 green route?

1 A. I do understand that.

2 Q. And do you acknowledge that the Illinois 71
3 Resistors' proposed route is substantially consistent
4 with the Community's own interpretation of its
5 Comprehensive Land Use Plan?

6 A. Say that again. Just let me make sure.

7 Q. Do you acknowledge that the Illinois 71
8 Resistors' route is consistent with the Community's
9 own interpretation of its Comprehensive Land Use
10 Plan?

11 A. With the position taken -- well, not with
12 the Comprehensive Plan, I am sorry. I think that's
13 what I want to avoid getting backed into answering
14 because I read the Comprehensive Plan as having much
15 more emphasis on preserving open space, on preserving
16 the Fox River corridor in its natural state and not
17 intruding into it. It does not say power line. It
18 doesn't say power line on it, I don't think,
19 anywhere. But not intruding in it in a way that
20 would destroy the natural character.

21 So I see the Comprehensive Plan on its
22 face as much different perhaps than is being

1 emphasized in the position taken by the City in
2 response to this power line proposal.

3 Q. I understand, and I understand you have a
4 dramatically different viewpoint from the City, and
5 your viewpoint really has nothing to do with my
6 question which I will repeat. And that is, do you
7 acknowledge that the Illinois 71 Resistors' position
8 is consistent with the Community's own interpretation
9 of its own Comprehensive Land Use Plan?

10 A. It is consistent with the resolution that
11 you are referring to, yes.

12 MR. SCOTTI: Mr. Ward, thank you very much for
13 your cooperating. At this point I am concluded.

14 JUDGE ALBERS: Mr. Scotti, we addressed
15 Illinois 71 Resistors' Cross Exhibit 1 but I don't
16 recall any request for admission of the second one.

17 MR. SCOTTI: You are correct. I probably
18 overlooked that. At this time I would move to admit
19 Illinois 71 Resistors Cross Exhibit Number 2 which is
20 an aerial photograph of the Railnet route or Option 2
21 as proposed by Ameren.

22 JUDGE ALBERS: Is there any objection to that?

1 MR. FLYNN: No objection to Exhibit 2.

2 (Whereupon Illinois 71 Resistors

3 Cross Exhibit 2 was admitted

4 into evidence.)

5 JUDGE ALBERS: Off the record.

6 (Whereupon there was then had an

7 off-the-record discussion.)

8 JUDGE ALBERS: We will recess for a couple

9 minutes.

10 (Whereupon the hearing was in a

11 short recess.)

12 JUDGE ALBERS: We will go back on the record.

13 I am sure there are others that have cross for

14 Mr. Ward. Mr. Scotti, you were finished?

15 MR. SCOTTI: I am finished.

16 JUDGE ALBERS: Any other cross for Mr. Ward?

17 MR. SHAY: I am going to waive my cross for

18 this witness.

19 JUDGE ALBERS: All right. Did you? Go ahead.

20 CROSS EXAMINATION

21 BY MR. ZUKOWSKI:

22 Q. Mr. Ward, good morning.

1 A. Good morning.

2 Q. I am Walt Zukowski. I represent
3 LaSalle-Peru Township High School.

4 Are you familiar, Mr. Ward, with the
5 questions and answers submitted by Mr. West on behalf
6 of the high school?

7 A. Yes, yes.

8 Q. I believe your Question 26 on Exhibit 20.0
9 talks about your testimony responding to the Question
10 F?

11 A. Yes.

12 Q. In there you talk about the alternative,
13 PROTED 80 alternative, 2 and 3?

14 A. Yes.

15 Q. Indicating that that would be the least
16 desirable of the routes. Are you talking there about
17 the original PROTED 80 alternative routes?

18 A. I am not even sure that I knew the
19 difference.

20 Q. This is as it was originally tendered by
21 PROTED 80?

22 A. Somewhere in my brief case I have the

1 exhibit that I was looking at that had the routes on
2 there, and that's all I can attest to, is what I was
3 looking at.

4 Q. As part of one of our e-Docket exhibits,
5 Exhibit 1.1 on behalf of the high school which is
6 part of the e-Docket, it purports to show the
7 alternative routes. I would ask to be able to show
8 that to Mr. Ward.

9 A. I think I have that, yes.

10 Q. That's one or two you were talking about?

11 A. Yes, that's what I am talking about.

12 Q. You can hang onto that for the time being.

13 A. All right. This is exactly what I was
14 referring to.

15 Q. And when you were reviewing Mr. West's
16 testimony, did you have an opportunity to review the
17 exhibits that were attached to his documentation as
18 well?

19 A. I think. Let's see, yeah, I think so.

20 Q. Making reference now to Exhibit 3.1 which
21 was tendered on behalf of District 120?

22 A. I did have that, yes.

1 Q. So going back to my question then, you
2 indicated that what you designated as Alternatives 2
3 and 3 would be the least desirable. And which of the
4 routes does that refer to on the map that's shown
5 there?

6 A. If I am reading the map correct, that's the
7 red and the yellow line that overlay each other. And
8 that crosses splat across, horizontal east-west,
9 across the lower third of the site.

10 Q. And if north is the direction on the top of
11 the page there, then that would be running east and
12 west?

13 A. It runs east and west across your site and
14 then north-south up along the west edge of your site,
15 yes.

16 Q. And so you indicated that would be the
17 least desirable of the choices?

18 A. Yes, sir.

19 Q. You indicate that it would disrupt the
20 baseball and softball diamonds in your answer there.
21 Is there anything else on the plan prepared by Mr.
22 West that you believe would be impacted by that?

1 A. Well, I saw that, if I understood
2 everything I am looking at properly, as just really
3 messaging up the ball diamond situation. Then it would
4 go on across and go up the edge of the property where
5 I didn't feel like it would be a big disruption going
6 north and south. But coming across, right across the
7 ball diamonds, I think it would basically destroy
8 that possibility.

9 Q. So in addition to the baseball diamond --
10 so when you say ball diamond, are you referring both
11 to the baseball and the softball diamond there?

12 A. Yes.

13 Q. And it is your understanding that that line
14 would pretty much preclude the plan that Mr. West had
15 proposed from being accomplished?

16 A. It is certainly a profound imposition. In
17 theory, if you could get your poles to the two
18 extremes of that land and expand the entire distance
19 without those lines dropping down too low, you could
20 play baseball under the lines. I am just not sure
21 whether you can manage the geometrics of that and the
22 engineering of that. And you are certainly better

1 off not to have a power line going right across your
2 ball diamond.

3 Q. And then on the north-south leg of that
4 alternative that you also made reference to as going
5 up the western side of the high school's property
6 there, it shows in this map, I believe, a soccer
7 field, maybe two soccer fields, and some
8 track-related facilities, discus, shot put, javelin,
9 those kind of things?

10 A. Yes.

11 Q. Would those items be impacted potentially
12 as well by that route?

13 A. My feeling is, and maybe I don't know
14 enough about it and I will admit that, but my feeling
15 is I don't see why that would inhibit those
16 activities.

17 Q. What would be the normal width for an
18 easement on property for Ameren with this size and
19 type of line?

20 A. Well, I make a broad assumption when I said
21 what I did in my previous statement. I am assuming
22 that their right-of-way would be an easement across

1 this land, at least half of it. And it normally
2 would be 50 to 100 feet, normally 100 feet if it is
3 not collocated with another utility or a road
4 right-of-way. So it would be 50 feet of right-of-way
5 that would be located on your land, but the power
6 line, presumably, and I am making a lot of
7 assumptions here, would be the stanchions or the base
8 of the towers would be located almost on the property
9 line. That's what I am assuming. Now, if they have
10 got to be moved way into your property, that's
11 another story. That would disrupt your activity.

12 Q. Have you visited this site, Mr. Ward?

13 A. I drove by here not looking at it with this
14 in mind. So my comments are tentative, as I said,
15 and they are based upon what I see on these maps.

16 Q. Do you recall whether there are any lines
17 on the western edge of the high school property now?

18 A. I do not remember anything about that.

19 Q. If I were to tell you that there are no
20 lines there now, would that impact on your answer as
21 to the width of land that would have to be acquired
22 by Ameren in order to run that north-south leg of

1 that alternative?

2 A. Well, no. I mean, my understanding --
3 okay, I assume there is no other utility line there.
4 Therefore, I would assume that means 100-foot
5 right-of-way. And I did also assume that the center
6 of that right-of-way would be more or less the
7 property line, and that's the way I read this map. I
8 read the map as having that line going right at the
9 property line, which means it would be centered on
10 the property line, 50 feet of right-of-way coming off
11 of your property and 50 feet coming off the abutting
12 property to the west. That's the way I read the
13 diagram that I am looking at. I may be wrong.

14 Q. You go on to talk about in your response to
15 Question 26 the Ameren Alt 1, PROTED 80 Alt 1,
16 alignment could be refined to yield a workable
17 option. On the other document that I tendered to you
18 which was -- shows, well, the other document.

19 A. Oh, the other one, sorry.

20 Q. It shows the routes there. It indicates on
21 there a black line as well. Do you see the black
22 line?

1 A. Yes, sir.

2 Q. And that is part of the exhibits tendered
3 by Ms. Peterson who you have identified before as
4 answering questions on behalf of the high school, and
5 this is one of the exhibits that was attached to her
6 statement. Would that option, that black line
7 option, have minimal impact on the proposal set forth
8 by Mr. West as far as the plan for the area?

9 A. From what I can see. And I didn't respond
10 to that because I read the question asked of me as
11 rebuttal testimony that any alternate route running
12 west from the North LaSalle substation across the
13 district's property overhead would prevent the
14 implementation. So I read it as referring to only
15 those routes that crossed your property. That if
16 this is an alternative that is technically viable
17 from the standpoint of Ameren, and I don't know that
18 one way or the other, clearly that's the least
19 intrusive route. I mean, it has no impact on the
20 school.

21 Q. So you mentioned in your testimony, in your
22 response also, that "I note that all of his concerns

1 would be eliminated with the selection of Ameren's
2 primary route." Am I hearing you to say then that
3 Ameren's primary route plus the alternative suggested
4 by Ms. Peterson would have comparable lack of impact?

5 A. Where does it say Ameren's primary route?

6 Q. I think it is the last sentence of the
7 answer.

8 A. "However, I believe that PROTED 80's
9 Alternate 1 alignment," that's the blue one, "could
10 be refined to yield a workable option with limited
11 impact upon the plans for the school site development
12 and facilities." Is that what you are referring to,
13 my statement there? I am confused as to what we are
14 talking about.

15 Q. What about the refinement that you talk
16 about in there that could be made to the other
17 alternative?

18 A. That would be the PROTED Alternate 1, the
19 blue line on here, right?

20 Q. Yes.

21 A. All I meant was, the way it is aligned, it
22 would cross the corner of your property here and it

1 looks like, I don't know what that pavilion is or
2 structure that's there, that's public toilets. I
3 guess I assumed that perhaps there was another way
4 that the public toilets could be located or perhaps
5 it would have no impact on the public toilets if it
6 cut across that corner. That's all I meant.

7 Q. Are you familiar with Mr. West?

8 A. I am not.

9 Q. Are you familiar with his firm, EOED out of
10 Decatur.

11 A. I am not.

12 Q. On Mr. West's title page --

13 A. I did read his testimony. It's been
14 awhile, but I read it.

15 Q. He identifies himself as an AIA?

16 A. Yes.

17 Q. Do you know what that stands for?

18 A. A member of the American Institute of
19 Architects.

20 Q. And you are familiar with his testimony,
21 you said?

22 A. I did read it but, as I say, it's been a

1 while since I read it. I didn't prepare for this day
2 by rereading it. Sorry.

3 Q. And his concerns, you are familiar with his
4 concerns as it relates to both the Alternative Routes
5 1 and 2?

6 A. Yes.

7 Q. And have you done any plans yourself
8 similar to Mr. West?

9 A. No, sir. I am not an architect.

10 Q. Is it fair to say that you eyed the plan
11 and where the Alt 1 would be going?

12 A. Yes, I did that.

13 Q. And you just speculated that it might be
14 possible to reroute those things?

15 A. I am reading the plan. What the plan says
16 to me is, it says, concessions, lockers, public
17 toilets in this little building. I am just saying if
18 the power had to cross that corner of the land, I
19 would think there would be a way to realign that
20 since that is such small activity.

21 Q. But you do not know whether --

22 A. I do not know that.

1 JUDGE ALBERS: Sure.

2 MR. ZUKOWSKI: I have no further questions.

3 JUDGE ALBERS: Thank you. Mr. Leigh?

4 MR. LEIGH: Thank you, Your Honor.

5 CROSS EXAMINATION

6 BY MR. LEIGH:

7 Q. Mr. Ward, I am Pete Leigh. I represent the
8 City of Ottawa. I have to say good afternoon.

9 A. Barely.

10 Q. In your rebuttal testimony you indicate
11 that as part of your review of the proposals, that
12 would include an assessment of compliance or
13 suitability of power lines with regard to community
14 comprehensive plans of local jurisdictions over which
15 the lines run. Would it not also have included a
16 determination of compliance with the zoning
17 ordinances that implement those comprehensive plans?

18 A. Yes.

19 Q. And in your assessment did you determine
20 that the proposal of the green route, at least from
21 the Wedron Lake to Ottawa was in violation of the
22 City of Ottawa Zoning Ordinances?

1 A. I did not. I didn't see it as being a
2 violation of the ordinance.

3 Q. And that's because you didn't understand
4 what a buffer zone or a setback is?

5 A. No, I think in my experience, and I have
6 not been a zoning administrator but I have been
7 involved in plan review for quite a few years for the
8 City of Creve Cour, maybe 15 years, and the City of
9 Olivette, both suburbs of St. Louis, I have always
10 recalled treating utility facilities like that, as
11 different than houses or buildings or structures. I
12 mean, they are structures in a very narrow sense, but
13 I didn't think of that as being a preclusion of a
14 power line any more than a preclusion of a street
15 lamp, as what I said before.

16 Q. So your assessment that it was not in
17 conflict with the zoning ordinance was based on your
18 experience in Missouri?

19 A. That's the way I interrupted it in my past
20 experience. Now, I don't do that every day of my
21 life, which is zoning administration. But I have not
22 looked at it as being a preclusion of a power line

1 pole or power line.

2 Q. You indicated that you have authored zoning
3 ordinances?

4 A. Yes, sir.

5 Q. Now, would you not agree in a general sense
6 that when property is indicated to require a setback,
7 let's say particularly with residential, there is a
8 setback requirement for the public right-of-way, that
9 generally means that you cannot construct or build
10 anything within the setback?

11 A. No, you can't build buildings in it. I
12 have never thought of it as precluding what I just
13 said, power lines, utility poles, big or little, or
14 street lights, all of which one could extremely
15 narrowly defined as structures, but I have not
16 defined them as structures in my past experience.

17 Q. Well, had you had the benefit of the Ottawa
18 interpretation of its own Comprehensive Plan and
19 Zoning Ordinance contained in the City's resolution
20 opposing this route, would you have done your
21 assessment differently?

22 A. I don't know. I didn't. I read the

1 resolution after the fact, after I had done my
2 original rebuttal testimony.

3 Q. Because if the assessment included a
4 determination of compliance and you had determined,
5 either through verbal communication or formal action
6 of the Ottawa City Council, that this was not deemed
7 to apply, it certainly would have impacted your
8 assessment?

9 A. It certainly would have impacted my
10 assessment. I would be getting down tightly on this
11 issue, which I didn't, obviously. I would have
12 carefully assessed how the City defines structure. I
13 think it could be a litigious, litigateable -- how do
14 you say it -- question, because in my past
15 experience, as I have told you repeatedly, I would
16 not see a power line pole as a structure precluded in
17 the setback.

18 Q. I understand that. But if the City of
19 Ottawa defines it as a structure, wouldn't you agree
20 that it is a structure?

21 A. If they specifically define it as a
22 structure, then obviously it is a structure as they

1 defined it per se.

2 Q. Doesn't the ordinance say structures?

3 A. It says structures, but I am saying
4 normally that is not considered a structure in my
5 judgment. Because you wouldn't have telephone poles,
6 you wouldn't have light poles because they all would
7 be deemed as structures that you could not put within
8 a setback. I have never heard of that. Okay?

9 Q. You also in your rebuttal testimony at
10 least indicate that most, if not all, of the
11 Intervenor's were advancing their own self interest?

12 A. That was my judgment upon reading the
13 testimony that I read.

14 Q. And I realize that the City had not filed
15 at that time any testimony in this proceeding?

16 A. That's correct.

17 Q. That's certainly not your position or
18 observation with respect to the city council of the
19 City of Ottawa?

20 A. It is not.

21 Q. Would you agree that they in fact represent
22 the public interest?

1 A. I do agree that they represent the public
2 interest.

3 Q. On page 11 of your rebuttal testimony, I
4 think at line 203, you reference planning documents?

5 A. Yes, sir.

6 Q. Would you consider a zoning ordinance a
7 planning document?

8 A. Yes, sir.

9 Q. As a matter of fact, the zoning ordinance
10 would be an implementation to some extent of the
11 comprehensive plan of a municipality?

12 A. It is the primary means of implementing the
13 plan.

14 Q. So when you read the comprehensive plan
15 from cover to cover and one of the objectives or one
16 of the recommendations was a 100 to 200 foot buffer
17 or setback along Route 71, you realized when you read
18 the ordinance that that was an implementation of that
19 goal or part of the plan?

20 A. I don't remember the comprehensive plan
21 speaking of 100 to 200 for the setback.

22 Q. You don't recall that?

1 A. I mean, I am not saying it didn't. I just
2 don't have that recollection right now.

3 Q. Well, assuming that it did, the subsequent
4 implementation or requirement of a 100-foot setback
5 from the center line of Route 71 would certainly be
6 an implementation of that goal?

7 A. Well, let me ask you -- can I ask you a
8 question?

9 Q. I get to ask the questions.

10 A. Well, I am confused by this. I don't --
11 can I just state my confusion, can I do that?
12 Whether or not this specification in the plan
13 precludes parking within that setback or not. I
14 don't remember anything saying that?

15 Q. Well, in this proceeding we are not talking
16 about parking facilities.

17 A. Well, if we are talking about the 100-foot
18 setback being the means of implementing the green
19 strip, it certainly has a big impact on that
20 question. If what you are telling me is that that is
21 the City's means of implementing the green way or
22 green belt or parkway or whatever the different terms

1 used, then -- and if the zoning code is the means of
2 implementing it through the 100-foot setback, I need
3 to know does it preclude parking. I don't remember
4 that it did. Because if it doesn't preclude parking
5 --

6 Q. Well, you know it doesn't preclude
7 structures?

8 A. Well, I understand that.

9 Q. This proceeding has nothing to do with
10 parking?

11 A. If you can put parking in there, it has
12 nothing to do with a green way then.

13 Q. I would agree.

14 A. Okay.

15 Q. And you have already -- you noted in your
16 testimony that you did not see the setback buffer
17 zone requirements or goals of the Comprehensive Plan
18 to be in any way in conflict with Ameren's proposal?

19 A. No, I didn't, because I did not see that
20 that would preclude in my --

21 Q. In your experience what does the word
22 "open" mean?

1 A. Well, open does not mean devoid of anything
2 and everything. You could say no trees could be in
3 it if you wanted to interpret "open" narrowly.

4 Q. Are trees generally considered a structure?

5 A. No.

6 Q. So when you read the Comprehensive Plan or
7 the Zoning Ordinance and saw the phrase "open
8 space" --

9 A. No question what the intent was. I am not
10 questioning what the intent was.

11 Q. You knew what the intent was?

12 A. I know what the intent is.

13 Q. It was to keep it open?

14 A. Keep it green, keep it open.

15 Q. And open to avoid the structures?

16 A. I have said repeatedly, that does not in my
17 judgment preclude there being a power line with
18 stanchions 400-feet apart. It could be very green
19 and very open and have that there, too.

20 Q. That is really the function of the City of
21 Ottawa to define its ordinance, is it?

22 A. Well, it is a matter of property rights,

1 too. There is a lot of things that get into this.
2 The City is not in a position of taking the people's
3 right to use their land with a setback. I have told
4 you before, I think if that is what the scheme is, I
5 can't imagine it will ever fly, politically or
6 otherwise.

7 Q. Well, when you say politically, do you know
8 how the Comprehensive Plan was prepared?

9 A. I don't know, but I don't think people see
10 this as a taking -- that's taking the use of their
11 property. They can't park on a 100-foot of setback
12 and they can't put anything on that 100-foot of
13 setback. And that's the most valuable land, the land
14 that fronts the highway. And you are telling me
15 through regulatory action you are going to create a
16 greenway there? I don't believe it. That's my
17 professional opinion. I do not believe it. It won't
18 happen.

19 Q. So you would have a similar problem, I take
20 it, in your judgment that any setback requirement on
21 a residential lot, whether it's 10 feet or 20 feet,
22 is also a regulatory taking?

1 A. No, sir, that's reasonable. 100 feet on a
2 corridor that has commercial potential, precluded
3 from anything being there other than landscaping,
4 that's what I am hearing you saying is going to be
5 effected with this policy, I don't believe it. It
6 won't happen.

7 Q. Well, you don't believe the policy will
8 happen?

9 A. I don't believe that result will occur.

10 Q. Well, what facts do you have at your
11 disposal right now that the city ordinance requiring
12 the 100-foot setback on the highways that are
13 designated in the ordinance has not been implemented
14 and it has not been enforced?

15 A. I don't know anything about it. I have no
16 idea. I have stated my opinion. I don't believe
17 that can be done.

18 Q. But it is not based on any fact,
19 particularly --

20 A. It is based upon 40 years in the land use
21 business.

22 Q. With respect to this comprehensive plan and

1 this ordinance, you have no facts at your disposal
2 indicating that that ordinance is not being enforced
3 at this moment?

4 A. Remember what I said about parking. That's
5 part of my argument. If it doesn't allow parking --

6 Q. My question is, are you aware of any facts
7 that would indicate, that would support your opinion,
8 that this ordinance is not being enforced and applied
9 in the manner in which it is written?

10 A. I am not aware of that.

11 Q. Thank you. You spoke about the -- I think
12 at about page 19, lines beginning at 393 of your
13 rebuttal, you stated you contend that the proposal of
14 the Illinois 71 Resistor would have a far greater
15 impact than Petitioner's and then you speak about
16 passing through the developed village of Dayton. Do
17 you see where I am speaking of?

18 A. Yes.

19 Q. Do you know what the population of Dayton
20 is?

21 A. No, I don't.

22 Q. Do you know what the population of the City

1 of Ottawa is?

2 A. I did. I mean, I read it, but I don't know
3 that I have it on the top of my memory.

4 Q. Is there a difference between the line
5 running through the village of Dayton and the line
6 running through the City of Ottawa both on its
7 westerly route and on its return from Wedron to
8 Ottawa? You have no problem with that range in the
9 city?

10 A. I don't understand the question.

11 Q. Why do you note the negative impact on
12 Dayton but you don't find a negative impact on the
13 city of Ottawa when a single line would pass through
14 the city of Ottawa?

15 A. Well, both alignments go through Ottawa.
16 There is no other way to get out of town. The
17 transformer is in the heart of the city. You have
18 got to get out of it and you have got to go through
19 some developed area. I think they have taken the
20 path of least resistance clearly along the park and I
21 believe it is the old canal right-of-way and the
22 railroad right-of-way which is already a fairly wide

1 open strip, and it is not disturbing natural
2 vegetation to any extent, natural features. There
3 are people's homes that are along that, yes. But
4 there is no way to get out of the middle of downtown
5 without affecting people.

6 Q. When Fox River Woods develops, as it
7 apparently will on Route 71, if that development were
8 there now instead of in a year, would your opinion be
9 different?

10 A. Well, for one thing, the Ameren proposal
11 for where Fox River Woods is proposed to be would
12 have the power line on the opposite side of the
13 roadway from where the residential part of the Fox
14 River Woods development would be.

15 Q. And what's that distance?

16 A. It is another hundred feet probably.

17 Q. These are how high?

18 A. The towers?

19 Q. Yes.

20 A. Eighty to 100, I think.

21 Q. Clearly visible from the Fox River Woods?

22 A. I didn't say it wouldn't be visible. I

1 didn't say that. But it doesn't cross the highway to
2 the west side of 71 until you get to the portion of
3 Fox River Woods, Fox Woods, that is proposed to be
4 commercial. Had it been built before, if it was
5 built the way they are saying they are going to build
6 it, with the residential facing inward, not with
7 homes fronting onto 71, I would say it wouldn't make
8 any difference.

9 Q. But it makes a difference with respect to
10 the impact it has on the village of Wedron but not
11 with respect to the city of Ottawa?

12 A. You mean Dayton?

13 Q. I mean Dayton, sorry.

14 A. Much more -- you would just have to go look
15 at it. It is just much more intimate, much more
16 tight scale. This is a very small modest little
17 community.

18 Q. Do you remember the number of houses you
19 determined to be impacted in Dayton?

20 A. I didn't count the houses. I mean, you are
21 probably talking 50 in the whole community. I don't
22 know.

1 Q. With regard to the visual impact, is that
2 going to be significantly higher in Ottawa?

3 A. I think the main thing in Ottawa, it is
4 going to cut down a corridor of trees. That's --
5 that and then the power line will be right there next
6 door to the houses. I mean, right next door to the
7 houses.

8 Q. You are talking about in Dayton?

9 A. In Dayton, yes.

10 Q. But I am talking about visual only.

11 A. Visual only where? Where are we going?

12 Q. In Ottawa, down Route 71. You have a 1200
13 unit residential development and tourists and
14 visitors coming down that gateway. Certainly, it is
15 going to be more visible and have a higher impact on
16 a greater number of people there than it does in
17 Dayton?

18 A. It will be more visible. There are more
19 people. I have already attested to that. But I
20 don't think it is going to deter anybody from coming
21 to this community. I don't think people are going to
22 say, hey, I don't want to be in this community; I

1 just saw a power line on this roadway. I don't
2 believe that for a minute.

3 Q. Well, generally from a planning standpoint
4 when you represent clients, don't you generally
5 recommend that they adhere to a municipality's
6 comprehensive plan and zoning ordinances?

7 A. You certainly always try to. You don't
8 always do that and sometimes you have a contest on
9 that and there are disputes with regard to that.

10 Q. But that would be your general
11 recommendation?

12 A. You are always better off if you can. I
13 don't see the City's Comprehensive Plan addressing
14 that issue, by the way.

15 Q. I understand. But the zoning ordinance
16 could be?

17 A. The way you are interpreting it, and I am
18 not quite sure that I am there and ready to interpret
19 that way.

20 Q. I am not asking you to agree with the
21 City's interpretation but that is the City's
22 interpretation?

1 A. If legally we are going to call all these
2 things structures, street poles, street lights, power
3 line poles, telephone poles might be necessary, I
4 don't know. If you are going to call all those
5 things structures precluded within all setbacks,
6 anywhere and everywhere where you have setbacks
7 required and stipulated by the zoning code, then I
8 guess you have a big problem. We have a big problem
9 or whoever. But I don't think that's what the zoning
10 code says. That's not the way I read it. That's why
11 I didn't get exercise running.

12 Q. When you read the Ottawa Comprehensive
13 Plan, did you consider the preservation of natural
14 resources, whether it is timber or whatever, a higher
15 priority than the highway corridor green belt open
16 space goal that's reflected in that plan?

17 A. Well, I am not quite sure I can answer it
18 the way you want. But I won't say a higher priority
19 but it is a more obvious circumstance. If you are
20 going -- if you have stand of trees, if you have a
21 natural valley of a river and the river runs through,
22 all you have to do is look at aerial photographs in

1 America and certainly out in the farm territory, the
2 trees are in the river valleys and the flatter land
3 is all being used for either utilization or it is
4 being used for agriculture.

5 So here is your tree cover. It is in
6 the valley. And you are talking about the rivers
7 being primary to creating the character and the
8 atmosphere and the quality of life that you want to
9 have this community known for and its residents want
10 to preserve, and then you want to go take a 150 to
11 100-foot clear cut right-of-way right through the
12 middle of this that's pretty narrow to begin with and
13 say that's in conformance with the Comprehensive
14 Plan, I don't buy it. I don't buy it for a minute.

15 Now, over on the roadway we have a
16 chance, we the community, you, to integrate the power
17 line with the development that takes place there,
18 with I would say some proper negotiation, commentary,
19 working together, whatever. So that when
20 urbanization does come to that corridor, it is not a
21 big deal for people. You have got it ahead of time,
22 right now.

1 Q. Well, isn't it the function of the
2 Comprehensive Plan and the adoption of the Zoning
3 Ordinance to insure that that vision that's
4 recognized in the Plan is adhered to? Isn't that why
5 you adopt the Zoning Ordinance?

6 A. Correct, but there is nothing in the
7 Comprehensive Plan that says there should not be any
8 power lines up where this green belt is proposed?

9 Q. Isn't that the function of the Zoning
10 Ordinance, to insure that the goals, the
11 Comprehensive Plan, are followed?

12 A. We have already been through the Zoning
13 Code, my understanding of it.

14 Q. I understand.

15 A. Do I have to go there again?

16 Q. Yeah. Generally would you agree with that?

17 A. The Zoning Code is the primary tool to
18 implement the Land Use Plan, yes. I did not see the
19 Zoning Code --

20 Q. I understand that. I understand that your
21 opinion is inconsistent with the views of the City.

22 A. And if the City allows parking in that

1 setback, the whole game is off, because that's not
2 green space.

3 Q. On page 4 of your surrebuttal, on line 88,
4 you suggest that given the potential lack of any
5 means to finance the acquisition of lands or
6 easements within the buffer zone, I assume you are
7 speaking --

8 A. I am sorry. I am not finding the same
9 place. You said line 88? My line 88 is on page 5.
10 I don't know why.

11 Q. In the surrebuttal?

12 A. Yes.

13 Q. It is changed. The question, it is the
14 answer to Question 7.

15 A. 7, okay. All right.

16 Q. In the first line?

17 A. Yeah, yes, sir.

18 Q. You speak about the potential lack of any
19 means to finance the acquisition?

20 A. Yes.

21 Q. For the creation of the green belt parkway
22 system.

1 MR. FLYNN: Counsel, may I give him a copy of
2 what was filed?

3 Q. Sure.

4 A. All right.

5 Q. Do you see what I am referring to?

6 A. Yes, I see what you are --

7 Q. What financial investigation did you do of
8 the City of Ottawa to determine what its wherewith
9 all and means are to do anything with respect to
10 green belts or buffer zones?

11 A. I did not do anything to specifically
12 investigate that. I have just been around an awful
13 lot of cities, worked for an awful lot of cities, and
14 I can not imagine if this City has to pay for this
15 land that it would have the resources to do so.

16 Q. So that's your speculation?

17 A. It is my speculation. I didn't say
18 otherwise. The most valuable land is the frontage.

19 Q. In the same document on page 7, line 150,
20 actually starting on line 49.

21 A. 149?

22 Q. 149. You say, "Finally, it is my

1 understanding that Ottawa did not require a setback,"
2 and then you have in parentheses "for any structure
3 on that part of Illinois 71 outside its 1.5 mile area
4 of zoning authority."

5 A. That's my understanding.

6 Q. Is it your understanding that Ottawa has a
7 1.5 mile zoning jurisdiction?

8 A. Yes.

9 Q. What is that based on?

10 A. It is just extraterritory zoning that
11 Illinois communities have.

12 Q. Do they have those in counties which have
13 zoning?

14 A. Do what?

15 Q. Do municipalities have extra territorial
16 zoning in counties that exercise zoning?

17 A. I don't know. I don't know. Maybe I don't
18 know enough about Illinois law on this.

19 Q. Do you know whether LaSalle County has
20 zoning?

21 A. I think it does. It has a comp plan.

22 Q. So is it fair to say that that statement --

1 A. That may be wrong.

2 Q. May not be correct?

3 A. That may be wrong. I don't know. Sorry.

4 MR. LEIGH: I believe that's all I have.

5 JUDGE ALBERS: Thank you. Can we all hang in
6 there for a few more minutes for Mr. Murphy and then
7 we will break for lunch? All right.

8 CROSS EXAMINATION

9 BY MR. MURPHY:

10 Q. Mr. Ward, over here. At page 13, I am
11 sorry, in Exhibit 13 which would be your rebuttal
12 testimony at page 6.

13 A. Let's hope we have the same pagination.

14 Q. Yeah, we can always hope.

15 A. Which lines are you on?

16 Q. I will be there myself in a second. On
17 lines 100 to 106?

18 A. Okay.

19 Q. You say that it is commonplace for
20 electrical transmission lines to occupy right-of-way
21 abutting highways throughout the country, is that
22 your testimony?

1 A. Yes.

2 Q. In your opinion or in your experience is it
3 also commonplace to place transmission lines in rural
4 settings?

5 A. Oh, yes.

6 Q. Same exhibit on page 7, I think the easiest
7 thing here just as a foundation, would you please
8 read aloud lines 118 through 130, that paragraph line
9 118 through 130?

10 A. "Most, if not all, of the negative impacts
11 claimed by the PROTED 80, SOLVE and Illinois 71
12 Resistors and the claimed harm to abutting properties
13 from the planned transmission lines are far greater
14 in perception than any reality. While the towers and
15 wires are clearly visible and would not be deemed
16 'attractive' in a way that people would seek to have
17 them placed on their property or in their yard, the
18 ubiquitous circumstances of their placement in all
19 types of settings and environments suggest that once
20 noted, their appearance tend to fade into most
21 people's images and perceptions of these
22 surroundings.

1 "Likewise, the fear of negative health
2 effects from the electromagnetic fields or EMF
3 associated with power lines has been largely put to
4 rest by repeated scientific studies and property
5 research. While the factors associated with
6 transmission lines may not be seen as desirable, in
7 my judgment they will rarely be a meaningful
8 deterrent to the use or value of associated or
9 adjacent land."

10 Q. The opinion that you state in this
11 paragraph, is this unique to the lines or the routes
12 that PROTED and SOLVE are discussing?

13 A. Not really.

14 Q. Are they unique to the routes that Illinois
15 71 Resistors are discussing?

16 A. No.

17 Q. So would it be fair to say that this is
18 your opinion about all transmission routes
19 everywhere?

20 A. It is a broad statement of opinion on it,
21 yes. I think they get greatly exaggerated.

22 Q. And I notice here that you said in your

1 opinion the fear of negative health effects of
2 electromagnetic fields associated with power lines
3 has been largely put to rest by repeated scientific
4 studies. Have you read the testimony of Mr. Blue
5 that Mr. Blue filed in this docket?

6 A. No.

7 Q. Have you read the testimony that Ms. Small
8 filed in this docket?

9 A. No.

10 Q. Down who they are and who they are within
11 this docket?

12 A. No, I do not?

13 Q. Have you heard of SHOCK?

14 A. Shock, yes. The acronym SHOCK?

15 Q. The acronym SHOCK within the context of
16 this case?

17 A. Right.

18 Q. Have you read any of the testimony filed in
19 this case on behalf of SHOCK?

20 A. I am not sure. I have read various
21 individuals. I am not sure I know.

22 Q. Do you have an opinion about whether the

1 members of SHOCK are in your words trying to -- let
2 me find the right page here -- are seeking
3 essentially to push what they perceive to be a
4 problem for them off on others in the community?

5 A. I don't know that I address SHOCK in my
6 commentary on that. I don't think I did.

7 Q. Do you have an opinion about whether they
8 are seeking essentially to push what they perceive to
9 be a problem for them off on others in the community?

10 A. I will have to admit, I am confused as to
11 who said what among the various testimonies that I
12 read and from whom they represented right this
13 minute. I read a lot of them. I read them about a
14 couple months ago when I wrote my rebuttal testimony.
15 So I can't stand here and answer your question with
16 regard to SHOCK. Sorry.

17 Q. You told Mr. Scotti, I believe, that you
18 spent a day and a half in LaSalle County looking at
19 these routes?

20 A. That is correct.

21 Q. During that day and a half did you discuss
22 these routes with anyone other than Ameren employees?

1 A. Not Ameren employees or consultants, no.

2 Q. So the only people you talked to about the
3 routes were Ameren consultants or Ameren employees?

4 A. That is correct.

5 Q. So you didn't discuss this with anybody in
6 Ottawa?

7 A. I did not.

8 Q. You didn't discuss this with anybody in
9 Utica?

10 A. I did not.

11 Q. You didn't discuss this with anybody in
12 LaSalle?

13 A. Did not.

14 Q. Sorry, I have some exhibits that I wasn't
15 really preparing to use as exhibits and, therefore, I
16 don't have any copies. I would be happy to try to
17 work this out with Mr. Flynn to make sure that he and
18 everybody can see what we are talking about.

19 JUDGE ALBERS: Were these discussed in anyone
20 else's testimony?

21 MR. MURPHY: These exhibits, I don't believe
22 that this was attached to anybody's testimony in the

1 docket so far. It was produced in response to a data
2 request. We are checking to see if perhaps it is in
3 the record.

4 Q. And would you also get in front of you, if
5 you don't already have it, Illinois Resistors Cross
6 Exhibit 2 which was a series of overhead photographs
7 of Ameren's red line from Ottawa to Wedron?

8 A. Okay, I have it.

9 Q. And particularly the third page of that
10 exhibit. You had a long discussion with Mr. Scotti
11 approximate how wide the rail bed was and how wide
12 the rail right-of-way was and how wide it would have
13 to be for a power line. Do you remember that
14 discussion?

15 A. Yes, sir.

16 Q. When you traveled around, you said that you
17 also went and looked at the LaSalle to Wedron line or
18 the various LaSalle to Wedron proposals?

19 A. I did.

20 Q. Do you recognize what I put in front of
21 you? And I am sorry, I apologize to other counsel in
22 the room, this was produced in response to PROTED

1 Data Request Number 5.17.

2 A. Yes.

3 Q. It is an overhead photograph of a segment
4 of, as I understand it, Ameren's LaSalle to Wedron
5 route. It is a segment very far in the west. Do you
6 recognize this photograph? Do you recognize in
7 general where this is?

8 A. Oh, yes, sir.

9 Q. And the part that's lavender there appears
10 to be in a tree line. Do you see that?

11 A. Yes.

12 Q. Are you familiar with Ameren's discussion
13 that their route would go down a railroad bed, the
14 ICC Railroad right-of-way?

15 A. That was my understanding, yes.

16 Q. And do you understand that this is a
17 picture of that segment of the route?

18 A. Yes.

19 Q. Now, I am going to have you flip back and
20 forth between exhibits, I apologize. When you go
21 back to Illinois Resistors Cross 2 at page 3, can you
22 actually see the rail line on the picture? I am

1 sorry, Illinois Resistors Cross Exhibit Number 2 on
2 the third page.

3 A. Well, on the third page.

4 Q. On the third page.

5 A. Some places I think I see it. It is -- the
6 red line, the red dotted line appears to be just west
7 of the actual railroad right-of-way.

8 Q. Okay. And you described that railroad
9 right-of-way as being in sort of a tree lined canopy?
10 I believe canopy was your word?

11 A. Well, major portions of it. I said when it
12 got up here by the quarry it is not for sure.

13 Q. But in your opinion, putting a power line
14 there would cause Ameren to greatly widen that
15 corridor?

16 A. I don't understand.

17 Q. Well, you were discussing with Mr. Scotti
18 the impact of putting the power line through that
19 corridor. And as I recall, your statement was to do
20 the tree clearing which would be 100 to 150 feet of
21 right-of-way --

22 A. Fifty to a hundred is what I said.

1 Q. In addition to the railroad right-of-way?

2 A. No, 50 in addition to the railroad

3 right-of-way.

4 Q. So if the railroad is 100, it would be 150?

5 A. Probably 50. I just don't know. I don't

6 remember the specifics.

7 Q. And your term, I believe, was that it would

8 be profoundly intrusive?

9 A. Certainly in certain places.

10 Q. Okay. I am taking you back now to the

11 exhibit I just put in front of you, the picture of

12 the segment of the line, the LaSalle-Wedron line. Do

13 you see the rail beds in that picture? And, first of

14 all, do you know how many rail lines are in that

15 wooded area?

16 A. I haven't a clue.

17 Q. Can you see the rail bed at any point?

18 A. It is not evident to me. But I see where

19 it might be but I wouldn't be certain of that.

20 Q. And is it your understanding that in order

21 to put the power line through that segment Ameren

22 would have to clear 100 to 150 feet of trees?

1 A. Not 150 but 100 maybe. Maybe, I don't
2 know.

3 Q. And would that be any less intrusive than
4 the tree clearing you were discussing on the
5 Ottawa-Wedron line?

6 A. That would certainly be intrusive in that
7 forest, if it is a forest. I tried to get to it, but
8 it is kind of grown over back in those lots there on
9 the west and down those roads.

10 Q. It is kind of hilly there, isn't it?

11 A. Yeah, kind of hard to see what it is.

12 Q. Thank you. If you go back to your
13 testimony, to Exhibit 13 at page 6?

14 A. The surrebuttal testimony?

15 Q. I believe it is your rebuttal.

16 A. Oh, rebuttal. What line are we talking
17 about?

18 Q. If you would read the sentence that begins
19 on lines 109 and ends on line 112, I would appreciate
20 it.

21 A. "In reality"?

22 Q. Yes.

1 A. "In reality the positioning of 75 to 90
2 foot tall poles or towers carrying transmission lines
3 and located in average of about 450 feet apart poses
4 minimal, if any, direct negative impacts on adjacent
5 properties, regardless of their use." I think I read
6 this once before today.

7 Q. Okay. And is that sentence equally true in
8 agricultural rural areas?

9 A. I don't know why it wouldn't be. I don't
10 quite understand the question.

11 Q. Well, if I asked you whether there would be
12 a negative impact of putting a power line, a
13 transmission line, in a rural area, would your
14 opinion be the same as stated here in this sentence?

15 A. I would say basically. I think the
16 principle -- it is a general statement.

17 MR. MURPHY: No further questions at this time.
18 Thank you. I think we found where the exhibit is in
19 the record which will save having to move it.

20 What I presented to you, and I ask
21 Mr. Flynn to check it if he is concerned, but it is
22 attached to the rebuttal testimony of D. Bennett as

1 Exhibit 2. -- or, I am sorry, Schedule 2. --

2 MR. FLYNN: You know, why don't we talk about
3 it over lunch and we will see if we can work it out
4 and we will come back later.

5 JUDGE ALBERS: That's fine. Mr. Klein, you had
6 a question?

7 MR. KLEIN: Your Honor, I did not indicate that
8 I wanted to cross-examine Mr. Ward, although after
9 hearing the testimony this morning, I would like to
10 have an opportunity to ask questions, no more than
11 five, ten minutes at most, just several questions.

12 JUDGE ALBERS: Okay. Do people want to hear
13 those now? We are pushing lunch time.

14 MR. FLYNN: Are we at the end?

15 MR. KLEIN: Yeah, I waited until everyone else
16 was done.

17 JUDGE ALBERS: Then you can do your redirect
18 after lunch.

19 MR. KLEIN: Thank you, Your Honor.

20 CROSS EXAMINATION

21 BY MR. KLEIN:

22 Q. My name is Herb Klein. I represent the

1 Village of Utica. How are you?

2 A. Fine.

3 Q. I won't keep you long. I know you are
4 anxious to go to lunch.

5 In your -- I am going to refer only to
6 your rebuttal testimony which is AmerenIP Exhibit 13.
7 In that testimony you indicated that you had reviewed
8 the Village of North Utica Comprehensive Plan, is
9 that correct?

10 A. Yes.

11 Q. You indicated you are familiar with that
12 plan and I think in earlier testimony with Mr. Scotti
13 you indicated you had read the plan through cover to
14 cover?

15 A. I was speaking of Ottawa when I said that,
16 but I think I read your plan, too.

17 Q. Were you involved in any of the meetings or
18 discussions when that plan was put together?

19 A. No, sir.

20 Q. Did you talk with any of the elected
21 officials of the Village and members of the planning
22 commission who drafted and adopted that plan?

1 A. No, sir.

2 Q. Have you talked with the planning group,
3 North Central Council Governments, who drafted that
4 plan and prepared it for the Village?

5 A. No, sir.

6 Q. Have you talked to any of the developers in
7 the Utica area regarding a proposal for the Ameren
8 power line transmission lines?

9 A. No, sir.

10 Q. Now, you indicated in your testimony, I
11 believe, that you are aware that the Village of Utica
12 objects to the proposal, indicating that there be
13 power lines at the south side of the Route 80 and
14 Route 78 interchange, believing that at that location
15 those lines are incompatible with the expected
16 tourism and economic growth for the Village of Utica,
17 is that correct?

18 A. I did.

19 Q. I am going to show you a couple pages of
20 the Village of North Utica Comprehensive Plan which I
21 have marked as North Utica Cross Number 2.

22 JUDGE ALBERS: Is there a North Utica Cross

1 Number 1?

2 MR. KLEIN: No. We had a North Utica Exhibit
3 Number 1. I guess it wasn't a cross exhibit. So
4 strike that and make it North Utica Cross Exhibit
5 Number 1 and only.

6 (Whereupon North Utica Cross
7 Exhibit 1 was marked for
8 purposes of identification as of
9 this date.)

10 BY MR. KLEIN:

11 Q. Do you recognize this?

12 A. It must be part of the Comprehensive Plan
13 that I read. They all look alike somehow.

14 Q. Well, in reviewing the Comprehensive Plan
15 would you turn to page 815 which is page 2 of the
16 hand out, the exhibit? Public Utilities Goal, do you
17 remember reviewing that section?

18 A. Yes.

19 Q. And turning to the last page which is
20 titled Objective Number 3, page 816, I believe you
21 cited Policy Number 1 there in your testimony, is
22 that correct?

1 A. I did. Yes, sir, I remember.

2 Q. Could you read Policy Number 3?

3 A. "Locate utility lines and structures where
4 they will be compatible with existing or planned
5 development and will be in accord with the optimum
6 use of air, water and other resources."

7 Q. Okay. Now, in your testimony on page 13 at
8 line 251 of your rebuttal testimony you indicated at
9 line 251 at the same time I do not believe that the
10 presence of the proposed transmission lines along the
11 south edge of I-80 and around the south flats of 17
12 at the interchange with Illinois Route 178 will
13 interfere in any way with the utilization of these
14 plans for North Utica at this interchange; that's
15 your testimony, is that correct?

16 A. That's correct.

17 Q. So now if you haven't talked to any members
18 of the elected officials of Utica who represent the
19 village and the developers in that village,
20 acknowledging that you didn't participate in the
21 drafting of that plan, acknowledging that you didn't
22 talk with any of the developers who want to develop

1 in that area, do you recognize that your conclusion
2 that you do not believe that it will interfere with
3 development in that area is inconsistent with those
4 who represent Utica who drafted the plan and adopted
5 the plan?

6 A. I read the plan.

7 Q. The questions is a yes or no question. Do
8 you recognize that your testimony is inconsistent
9 with those who put together and adopted the plan and
10 represent the plan?

11 A. I don't know. All I know about those
12 people is what they said is in this plan. So, I
13 mean, my answer is no, I don't see a conflict.

14 Q. You don't see conflicts when they have
15 submitted testimony that they believe that this power
16 line would be incompatible with expected tourism and
17 economic development at that site?

18 A. Sorry, I haven't seen that resolution. But
19 I have read the plan.

20 Q. Did you review the testimony of Mr. Tom
21 Guttilla in preparation for today?

22 A. I don't know that I did or didn't off hand

1 right now. Is he the mayor?

2 Q. No, he is the chairman of the planning
3 committee.

4 A. I don't recall.

5 Q. So in general based on your experience in
6 preparing comprehensive plans and preparing zoning
7 ordinances, the elected officials who put together
8 those plans and who have public hearings to draft
9 those plans, is it fair to say that they represent
10 and they are acting in the best interests of what
11 they believe are the best interests of the village,
12 is that correct?

13 A. Yes, one has to presume that.

14 Q. So if they indicated in the plan that they
15 don't believe that utility lines need to be located
16 in an area that's compatible --

17 A. You keep saying they indicated in the plan.
18 I read the plan and the plan doesn't say that.

19 Q. Well, Policy Statement Number 3 which you
20 just read says utility lines and structures shall be
21 located where they are compatible with exiting or
22 planned development. That's what the plan states.

1 A. That's what the plan states. I don't see
2 that the power line is incompatible with the plan.

3 Q. So --

4 A. Now, if they had a separate resolution
5 addressing the power line, I wasn't aware of it.

6 Q. So you are disagreeing -- you acknowledge
7 that their position in this case is that that is not
8 a good location for the power line?

9 A. Not according to the plan. The plan
10 doesn't say that. I am sorry.

11 Q. I am not asking about the plan. Their
12 position in this case, what we are here for today, is
13 that the location of the lines at that location is
14 incompatible and would be a detriment to tourism and
15 economic development growth at that area?

16 A. Well, I am sorry. I don't know that I have
17 seen that statement. If I should have, I apologize,
18 but I don't recall having seen that statement. I saw
19 it for the City of Ottawa. I didn't see that.

20 MR. KLEIN: Well, that is the Village of Utica
21 Exhibit Number 1, and I have no further questions.

22 JUDGE ALBERS: Thanks, Mr. Klein. I have three

1 questions for him, but at this point I am going to
2 wait until after lunch -- or Mr. Flynn, you raise
3 your eyebrows. Are you real anxious to hear my
4 questions?

5 MR. FLYNN: Otherwise I will worry about it.

6 JUDGE ALBERS: All right. I want you to enjoy
7 your lunch.

8 MR. FLYNN: All 18 minutes that they are going
9 to give me for lunch.

10 EXAMINATION

11 BY JUDGE ALBERS:

12 Q. All right. I will be brief. Would you
13 turn to Exhibit 13.2 of your rebuttal? Just looking
14 at the lines in those pictures, do you have any idea
15 what voltage and what the pole heights are?

16 A. Not specifically, sir.

17 Q. You just can't tell by looking at them?

18 A. I will say they look like the two in the
19 foreground or the middle ground here, they look like
20 they are probably close to -- they are 75 to a 100
21 feet tall, 80 perhaps more likely. There are
22 certainly multiple wires on them. The amount of

1 volts they are carrying I couldn't begin to tell you,
2 but these are not neighborhood lines.

3 Q. Right. I didn't know if you could tell by
4 the number of insulators?

5 A. I can't. Maybe somebody can, but I can't.

6 Q. All right. Maybe I will ask somebody else
7 that later. You indicated earlier that you can't
8 bury these types of lines that we are talking about
9 in this case, the 138kV. Is that for engineering
10 reasons?

11 A. I don't think it is an absolute statement.
12 In my testimony I said these kind of high tension
13 lines, for lack of a better term and I am not an
14 expert at the technology of this, are typically not
15 buried. It is very costly. There is a lot of heat
16 involved when you compress them into a channel. The
17 engineers can tell you a lot more about that than I
18 can.

19 It is easy to bury residential
20 distribution lines and more and more communities are
21 requiring that today and I celebrate that. I think
22 they should be buried. These kind of lines typically

1 aren't buried except where you have got in a big
2 expensive downtown. You wouldn't see lines like
3 these in downtown Chicago. They have vaults and they
4 have chambers and they have conduits underground to
5 carry this, a very expensive endeavor but they do it.
6 They don't do it out in low density suburban
7 locations. It is just not cost effective or close to
8 it, I understand, to bury those kind of lines. I
9 would be the first to say it might be desirable, but
10 I don't think it has any practicality.

11 JUDGE ALBERS: Thank you, Mr. Ward. And then
12 before I forget, Mr. Klein, did you move for
13 admission of your cross exhibits?

14 MR. KLEIN: No, I didn't. Thank you for
15 reminding me. I would move for admission of Cross
16 Exhibit Number 1.

17 JUDGE ALBERS: Any objection? Then hearing no
18 objection, North Utica Cross Exhibit 1 is admitted.

19 (Whereupon North Utica Cross
20 Exhibit 1 was admitted into
21 evidence.)

22 JUDGE ALBERS: And if you have any redirect, we

1 will hear that after lunch and we will go ahead and
2 break til two o'clock.

3 (Whereupon the hearing was in
4 recess.)

5 JUDGE ALBERS: We will go ahead and start it
6 again.

7 MR. FLYNN: Judge, we had no redirect for Mr.
8 Ward. And with Your Honor's permission, we would
9 like him to get on the road to Kansas City where he
10 was heading.

11 JUDGE ALBERS: That's fine.

12 (Witness excused.)

13 MR. FLYNN: We had a couple pending matters.
14 One, I don't think you had ever ruled on our motion
15 to admit Exhibits 13.0, 13.1, 13.2 and 20.0
16 Corrected.

17 And then Mr. Murphy had a location
18 where somebody had prefiled testimony that would take
19 the place of the photograph that he showed us.

20 JUDGE ALBERS: And then I did not hear any
21 objection to the admission of Mr. Ward's testimony
22 and exhibits. So hearing no objection those are

1 admitted.

2 (Whereupon AmerenIP Exhibits
3 13.0, 13.1, 13.2 and 20.0 were
4 admitted into evidence.)

5 JUDGE ALBERS: And, Mr. Murphy?

6 MR. MURPHY: Your Honor, I figured out after we
7 were finishing examining the witness that the
8 photograph I was showing him is at least tentatively
9 in the record. It was filed as part of the
10 biological assessment that was attached to
11 Mr. Bennett's rebuttal testimony as Schedule 2.7, and
12 the page I believe is page 45 of 63. So that is an
13 exact copy of the photo map that we were showing the
14 witness.

15 JUDGE ALBERS: Okay, thank you.

16 And our next witness?

17 MR. FITZHENRY: Yes, Your Honor, Petitioner
18 would call Mr. Douglas Emmons to the stand.

19 JUDGE ALBERS: You were previously sworn, Mr.
20 Emmons.

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DOUGLAS R. EMMONS

called as a witness on behalf of Petitioners, having
been first duly sworn, was examined and testified as
follows:

DIRECT EXAMINATION

BY MR. FITZHENRY:

Q. Good afternoon, Mr. Emmons. Would you
please state your name for the record.

A. Douglas R. Emmons.

Q. And your business address, sir?

A. 1901 Chouteau Avenue, St. Louis, Missouri.

Q. And by whom are you employed?

A. I am employed by Ameren Services.

Q. Mr. Emmons, have you caused to be prepared
testimony in evidence for submission in this docket?

A. Yes.

Q. I show you what has previously been marked
for identification as AmerenIP Exhibit 3.0 consisting
of seven pages of questions and answers titled Direct
Testimony of Douglas R. Emmons and ask if this was
prepared by you or under your direction and
supervision?

1 A. Yes, it is.

2 Q. If I were to ask you the questions set
3 forth in your direct testimony, Mr. Emmons, would you
4 give the same answers?

5 A. Yes, I would.

6 Q. And have you caused to be prepared or
7 assembled under your direction and supervision
8 certain exhibits identified as AmerenIP Exhibit 3.1
9 A, B and C, 3.2 through 3.8?

10 A. Yes, I have.

11 Q. Are they true and correct to the best of
12 your belief and knowledge?

13 A. Yes, they are.

14 Q. And the same question with regard to your
15 testimony. Is it true and correct to the best of
16 your knowledge and belief?

17 A. Yes, it is.

18 Q. Now I show you what's been marked again for
19 purposes of identification as AmerenIP Exhibit 9.0
20 consisting of 23 pages of questions and answers
21 titled Rebuttal Testimony of Douglas Emmons and ask
22 if that is intended to be your rebuttal testimony for

1 submission in this docket?

2 A. Yes, it is.

3 Q. If I were to ask you the questions that are
4 provided for in this testimony, sir, would you give
5 the same answers?

6 A. Yes.

7 Q. And had you caused to be prepared exhibits
8 in support of your rebuttal testimony identified as
9 AmerenIP Exhibit 9.1 through 9.7?

10 A. That is correct, yes.

11 Q. Do you have any corrections or
12 modifications to either your testimony or your
13 exhibits?

14 A. No.

15 Q. And, finally, Mr. Emmons I refer to you
16 what's been again marked as AmerenIP Exhibit 16.0
17 consisting of 24 pages of questions and answers
18 titled Surrebuttal Testimony of Douglas Emmons and
19 ask if that is intended to be your surrebuttal
20 testimony for submission in this docket?

21 A. Yes.

22 Q. If I were to ask you the questions set

1 forth in your surrebuttal testimony, would you give
2 the same answers?

3 A. Yes.

4 Q. And, sir, did you also cause to be prepared
5 or assembled under your direction and supervision
6 certain exhibits identified as AmerenIP Exhibit 16.1
7 through 16.14?

8 A. Yes, I have.

9 Q. Are they true and correct to the best of
10 your belief and knowledge?

11 A. Yes.

12 MR. FITZHENRY: Thank you, Your Honor. At this
13 time I move for the admission into the record
14 AmerenIP Exhibit 3.0, 3.1 A through C, AmerenIP
15 Exhibits 3.2 through 3.8, AmerenIP Exhibit 9.0,
16 AmerenIP Exhibits 9.1 through 9.7, AmerenIP Exhibit
17 16 and AmerenIP Exhibit 16.1 through 16.14, and
18 tender Mr. Emmons for cross examination.

19 JUDGE ALBERS: You said 16.14?

20 MR. FITZHENRY: Yes, sir.

21 JUDGE ALBERS: We will discuss the
22 admissibility following cross. Any questions for Mr.

1 Emmons? Mr. Shay, would you like to go first?

2 MR. SHAY: Thank you, Your Honor.

3 CROSS EXAMINATION

4 BY MR. SHAY:

5 Q. Hello.

6 A. Hello.

7 Q. I will be brief. I would like to refer you
8 to Exhibit 16.0 which is your surrebuttal testimony?

9 A. Yes.

10 Q. And turn to page 4, please, line 89 -- I am
11 sorry, line 87. It is Question Number 10.

12 A. Yes.

13 Q. Do you see that?

14 A. Yes.

15 Q. I believe there you are talking about the
16 placement of poles along the I-80 corridor that is
17 part of Ameren's primary route, is that correct?

18 A. That is correct.

19 Q. I believe in your answer you state that in
20 places along the I-80 corridor where there is also a
21 frontage road that the poles would actually be placed
22 between the interstate roadway and the frontage road,

1 is that correct?

2 A. That is our preferred location.

3 Q. Okay. I would like to ask you about the
4 other portions of the I-80 corridor where there is
5 not a frontage road and where the poles would be.
6 You talk about a right-of-way fence along the
7 interstate. Please describe in a little bit more
8 detail or specifically where that right-of-way fence
9 is generally in relation to the interstate roadway
10 itself?

11 A. It is usually -- usually the interstate
12 right-of-way fence is located at the edge of the
13 interstate right-of-way. That's typically the
14 accepted denotation as to where a state highway
15 right-of-way ends.

16 Q. Where is that -- is there a standard
17 distance away from the edge of the roadway that that
18 right-of-way roadway fence is placed or not?

19 A. No. Typically -- it varies along with the
20 right-of-way acquisition of the state when they build
21 the road right-of-way. Typically this will vary
22 depending on the topography of the land, negotiations

1 with the land owner, proximity to intersections and
2 such.

3 Q. Are you familiar with the I-80 corridor
4 that is part of Ameren's primary Route 1?

5 A. Yes.

6 Q. Would you have an estimate of the sort of
7 range of distances that that roadway fence or --
8 yeah, right-of-way fence is from the interstate
9 roadway, the edge of the roadway itself, along there?
10 Would it be 10 feet, 30 feet, 50 feet?

11 A. I don't know the exact distance from the
12 edge of the right-of-way.

13 Q. You couldn't estimate a range along there?

14 A. Not -- no, I really couldn't estimate a
15 range that that's in.

16 Q. That's okay. If you don't know, that's
17 fine.

18 A. I don't know.

19 Q. Well, with respect to that area between the
20 roadway, and again we are talking about Interstate
21 80, and the right-of-way fence, what normally appears
22 in that area on the ground, on the land?

1 A. Typically it is just a grassy area, small
2 shrubs and trees, guard rails, drainage ditches.

3 Q. No crops?

4 A. No.

5 Q. Would you expect that at least for portions
6 of that -- is it all right if we refer to that as a
7 buffer area for ease of identification?

8 A. Okay.

9 Q. The area between the roadway and the fence.
10 That buffer area, would you expect that it would be
11 possible for, again talking about Ameren's primary
12 route, if that were approved, would at least some of
13 the poles be located in that buffer area for the
14 transmission line?

15 A. No, we would not have any -- we would not
16 have any poles located between the edge of the
17 pavement and the right-of-way fence. That's a
18 limited access. That's a limited access
19 right-of-way. I know of no instances where a line
20 would be allowed to be built in that area.

21 MR. SHAY: Okay. I don't have any further
22 questions.

1 JUDGE ALBERS: Okay. Mr. Murphy?

2 CROSS EXAMINATION

3 BY MR. MURPHY:

4 Q. Good afternoon, Mr. Emmons. I want to
5 talk, unless I tell you differently, about the
6 LaSalle-Wedron line and leave LaSalle and Utica. I
7 don't think that was not really bailiwick and it is
8 not really mine.

9 In this docket how many proposed
10 routes does Ameren have for the LaSalle-Weber line?

11 A. We have three under consideration before
12 the Commission at this time.

13 Q. And in your opinion are each of those
14 routes feasible and acceptable alternatives?

15 A. Yeah, that was one of our primary
16 constraints, was that we would submit buildable,
17 constructible alternative routes as well as our
18 primary.

19 Q. So recognizing that you have a primary, is
20 it the Company's position that it would -- that any
21 of those three would be acceptable?

22 A. We could construct any of those routes.

1 Q. And would any of those be acceptable if the
2 Commission were to order either the primary, the
3 first alternative, the second alternative; each one
4 would be acceptable to the Company?

5 A. We would have no choice.

6 Q. But the Company has proposed three routes.

7 A. That is correct.

8 Q. And, therefore, any of those three would be
9 acceptable if that's what the Commission ordered?

10 A. Yes.

11 Q. Thank you. You understand that PROTED has
12 submitted three alternative routes to yours. Could
13 you rank for me in rank order all six routes as to
14 the Company's preference?

15 A. I guess I really don't have enough
16 information available to me to sit down and do a
17 ranking of each one on its individual merits.

18 Q. Well, let me ask you this. Do you have
19 available to you Exhibit 3.1, the PROTED exhibit -- I
20 am sorry, PROTED Schedule 1.3. That would be
21 Mr. Bennett's responsive testimony?

22 A. Yes, I do.

1 Q. And you see there there are six routes,
2 correct?

3 A. That is correct.

4 Q. Can you tell me from the Company's
5 perspective if all six of those routes were ranked
6 what the Company's preference would be in order of
7 routes?

8 MR. FITZHENRY: I am sorry, could I have the
9 question back again, please?

10 Q. Yes. If you were to rank all six of those
11 routes in the Company's order of preference, how
12 would you rank those routes?

13 MR. FITZHENRY: I thought I heard the witness
14 state earlier that he did not have enough information
15 or could not state a preference over which route
16 would be preferred over the next five. Are you
17 asking him the same question, sir?

18 MR. MURPHY: No. Well, I put an exhibit in
19 front of him that shows him the six routes so that it
20 might prompt his recollection as to what the
21 Company's position on those might be.

22 A. I think my position is still going to be

1 that, you know, this exhibit from this high a level
2 really doesn't -- I really do not have the -- really
3 have not ranked each individual line as a comparison.
4 I really have not.

5 Q. Well, let me take you through it in a
6 couple of different steps. Would Ameren prefer its
7 primary route over its first alternative? Can you
8 rank those Ameren routes?

9 A. Yes, those Ameren routes -- those are
10 ranked 1 through 3.

11 Q. Thank you. Can you tell me whether the
12 Company prefers each one of its routes over PROTED's
13 Alternative 1?

14 A. I can't say that I have -- that we have
15 performed an exhaustive and thorough enough
16 examination of the PROTED routes.

17 Q. Well, let's talk about PROTED Alternative 1
18 and we will narrow the answer here. Is it your
19 testimony that you don't know whether the company
20 would prefer PROTED Alternative 1 over its own
21 routes?

22 A. Well, I would say that we prefer our own,

1 our own routes, over the PROTED, simply because we
2 have examined -- we have examined our project. The
3 first area that we did in our routing study was to
4 examine the project area as a whole and determine
5 what are the -- what we thought were areas that we
6 should avoid based on our previous experience with
7 permitting agencies and governmental agencies, and we
8 found that the PROTED route went through some of
9 these, what we would consider to be, significant
10 areas. And that we would not have chosen -- we would
11 not have chosen any of the PROTED alternatives based
12 on our prior knowledge.

13 Q. So just so I understand, I am just talking
14 about PROTED 1 and if you don't know, you don't know.
15 If you do know, please say.

16 Let me break the question out a little
17 further. Does Ameren prefer its primary route over
18 PROTED Alternative 1?

19 A. Yes.

20 Q. Does Ameren prefer its first alternative
21 route over PROTED Alternative 1?

22 A. I would say that we do.

1 Q. Okay. Would Ameren prefer its second
2 alternative route over PROTED Alternative 1?

3 A. Yes, I would say we do.

4 Q. Can you say whether you would prefer PROTED
5 Alternative 2 over PROTED Alternative 1?

6 A. No, I really don't know once you start
7 comparing the PROTED routes.

8 Q. Thank you. Please turn to page 4 of your
9 original testimony. That would be Exhibit 3.0. And
10 I would like to direct your attention to lines 73
11 through 75. I guess I want to understand a little
12 more clearly what's going on at the base of each one
13 of these poles. Where you have a tangent pole and I
14 understand that to mean, correct me if I am wrong,
15 that the line is basically straight so the pole isn't
16 supporting the curve; it's supporting a straight
17 line. Is that a good layman's explanation of the
18 tangent pole?

19 A. That's a good layman's term description.
20 Technically, we are using a tangent pole for anything
21 less than a two-degree line angle.

22 Q. Is there a concrete base on a tangent pole

1 that sticks up out of the ground?

2 A. One of the two alternatives we have would
3 use that, would have a concrete base projected out of
4 the ground.

5 Q. Okay. Where there is no concrete base,
6 what is the diameter of the pole at ground level?

7 A. Somewhere between two and three feet.

8 Q. Where there is a concrete base, what is the
9 diameter of the concrete base at ground level?

10 A. Somewhere between -- it is somewhere
11 between five and eight feet typically.

12 Q. How do you determine, like a tangent pole,
13 where you would need to have a concrete base?

14 A. It would have to -- it would depend on if
15 the soil conditions were deep enough that we could do
16 what's called a vibratory caisson, where we can
17 vibrate a casing down into the ground. Or if the bed
18 rock is too deep -- if the bed rock is not deep
19 enough to allow that to be vibrated in, then we would
20 need to drill and insert a concrete pier foundation.

21 Q. So when you refer in your testimony to a
22 vibratory caisson foundation, that's a place where at

1 ground level you would only have the pole? If I
2 looked at something with a vibratory caisson, if I
3 saw a pole installed with that, I wouldn't see
4 anything but the pole going into the ground, right?

5 A. A vibratory caisson, no. It would have a
6 steel casing sticking up out of the ground, out of
7 the ground by --

8 Q. I am sorry.

9 A. By about a foot.

10 Q. And what's the diameter of that caisson?

11 A. Four to five feet. That would only be used
12 on a tangent pole. So that would only be roughly
13 four to five feet.

14 Q. So I guess is there any instance when that
15 two to three foot diameter is all there is at ground
16 level?

17 A. Probably not with the size of conductor
18 that we need to use on this project.

19 Q. So in every instance, even on a tangent
20 pole, you would have a base that sticks out of the
21 ground that's -- I am sorry, the diameter, how much
22 to how much?

1 A. Four to five feet.

2 Q. If you would look at -- if you would go to
3 your Exhibit 9 which was your rebuttal testimony, go
4 to page 2 of that, please. At the top of that page,
5 at the top of that answer, you refer to Ameren using
6 in this docket a qualitative rather than an
7 arithmetic approach. Do you see that testimony?
8 This would be line 25 and 26.

9 A. What page?

10 Q. This is Exhibit 9.0 at page 2, I believe.

11 A. Oh, okay. Yes.

12 Q. Can you please explain the difference
13 between a qualitative and an arithmetic approach?

14 A. Certainly. An arithmetic approach to line
15 routing is one that you have -- that you assign
16 certain sensitivity levels to different areas that
17 you cross, depending on is it in relationship to --
18 is there a relationship to a house, the location with
19 respect to an environmental area, nature preserve
20 area, is it within -- you take your criteria and you
21 assign a weighting, if you will, a weighting value, a
22 weighting factor to that, and then you multiply that.

1 You go through all -- you go through your entire
2 route and you determine what your total sensitivity
3 impacts are. And then the one that would have the
4 lowest score would be what would theoretically be
5 your least impact route.

6 Q. Thank you. Go ahead.

7 A. A qualitative approach is what we used on
8 this since we had -- we had a diversity. This line
9 has a diversity of different land uses along this
10 route and, of course, I know we are not considering
11 the Ottawa to Wedron, but also as part of the overall
12 project we had a lot of different land uses along the
13 way. We have rural and we have cropland and we have
14 some very sensitive environmental issues and we have
15 some very -- you know, some urban areas and some
16 very, very rural areas and we have some, you know,
17 wild life habitat areas. We have a very diverse mix
18 of areas that we go through.

19 And what we did was, as I spoke of
20 earlier, is we first identified from our past
21 experience that there were some permitting issues
22 that we designated as, for lack of a better term, put

1 it in layman's term, a show stopper. And these show
2 stoppers, we went back and we said these are areas
3 that we are not going to go through.

4 Now, if you assign -- in an arithmetic
5 approach you would just give that a high sensitivity
6 value but you would still have the possibility of
7 going through some areas that would leave you after
8 you determine which route that you were and you made
9 your arguments that this was the least impact route,
10 that you go back to actually construct it and get
11 your construction permits from all of your various
12 agencies and you can be left with -- you can, quite
13 frankly, be left with a route that, yeah, you ranked
14 as an -- using your weighting factor as your least
15 impact route, but when in reality you could end up
16 with an unbuildable route that you need to go around
17 something.

18 And we took a routing team of people
19 that had a massive amount of experience in routing
20 lines, and we had environmental scientists, we had
21 environmental consultants, we had line routing
22 consultants, and we had real estate and our real

1 estate supervisor and real estate agents, and we had
2 people that were associated with the local office,
3 the local offices of Ameren in the service area, also
4 involved in these meetings.

5 And we would go around and one of the
6 things that we did was we aerially photographed and
7 as well as when we selected our route segments which
8 gave us video fly overs using a helicopter with both
9 forward and down, and we would review those routes
10 and someone would speak up and say we need to
11 route --

12 Q. Mr. Emmons, I am actually going to get to
13 that point. Sorry to interrupt. But right now I am
14 just trying to figure out the difference between
15 qualitative and arithmetic in general. How they
16 apply to this route I guess we can get to later. I
17 guess all I am looking for is how qualitative and
18 arithmetic are different.

19 A. Arithmetic is you assign the weightings and
20 you go with it, but that has some degree of judgment
21 involved with it as well as how do you assign your
22 weighting. What's more important than others.

1 We as a -- when we say a qualitative,
2 we take a look at a more localized part of that and
3 say what's the most important thing in this specific
4 area, and we routed it where we thought that,
5 according to our experience, that it would have the
6 least amount of impact, the least amount of impact.
7 You know, it was a right-of-way acquisition. It was
8 can we get the right of way through here, are we
9 removing valuable scenery, are we removing -- are we
10 hindering something. But we take a more localized
11 view, rather than setting up an arithmetic weighting
12 factor and just plowing through.

13 Q. Are you familiar with Ameren's petition to
14 this Commission in Docket 06-0179? I believe it was
15 a power line in southern Illinois. Are you familiar
16 with that docket?

17 A. Yes.

18 Q. Were you involved at all in Ameren putting
19 its position together in that docket?

20 A. No, I was not involved with that petition.

21 Q. Do you know whether Ameren took an
22 arithmetic or a qualitative approach in that docket?

1 A. I believe they took an arithmetic approach
2 on that.

3 Q. And do you know -- I guess if you could
4 agree subject to check that that was filed in March
5 of 2006, does that sound familiar to you? Is that
6 right?

7 MR. FITZHENRY: Can you tell me what was filed
8 in March of 2006? The petition?

9 MR. MURPHY: The petition.

10 MR. FITZHENRY: Thank you.

11 A. That sounds close to it.

12 Q. And do you know whether there was a
13 decision at some point in Ameren that despite using
14 an arithmetic approach in that docket, it would use a
15 qualitative approach in this one?

16 A. Those processes were going on at the same
17 time, at approximately parallel time, this one was
18 already under. This routing was also underway.

19 Q. Yeah, they were going on at the same time.
20 I guess that's my question. Was there a decision
21 made in Ameren to pursue 06-0179, the petition in
22 that docket, using an arithmetic approach while using

1 a qualitative approach in this docket?

2 A. There are reasons why we used a qualitative
3 approach rather than an arithmetic approach on them.

4 Q. Do you know why Ameren chose to use two
5 different approaches in two different dockets that
6 were going on roughly simultaneously?

7 A. Those were different types of lines to be
8 constructed. The petition that you are speaking of
9 was a 345 kV intertie line that tied a new power
10 plant into the existing power grid.

11 Q. And do you know whether Ameren decided
12 internally that for higher voltage lines it would use
13 the arithmetic approach, but for lower voltage lines
14 it would use the qualitative approach?

15 A. I don't know that there is a specific
16 decision. A specific policy does not dictate one
17 approach or the other approach.

18 Q. Is it fair to say that a qualitative
19 analysis is more subjective than an arithmetic
20 analysis?

21 A. No, I don't think it is.

22 Q. Okay. Were you involved in this project,

1 the one that led to this petition, from its
2 inception?

3 A. I have been involved with this project
4 since June of 2005 which was the start of the routing
5 study.

6 Q. And to your knowledge was there ever a
7 conscious decision or a deliberate decision made
8 within Ameren that the position or the way you would
9 go about pursuing this petition would use a
10 qualitative approach instead of an arithmetic
11 approach?

12 A. I think the decision is based on my
13 experience and what I have used in my past, in my
14 past experience. Experience has led me to use that
15 type of approach on my projects.

16 Q. So it was your decision to use the
17 qualitative approach in this docket?

18 A. It was the decision of me and my supervisor
19 and my management that this was an acceptable
20 approach for this project.

21 Q. And was there a time when you and your
22 fellow decision makers said we could do this as an

1 arithmetic approach or do this as a qualitative
2 approach, but we will do it as a qualitative first?

3 A. I know of no point in which that specific
4 question was addressed.

5 MR. MURPHY: Thank you. Your Honor, I am not
6 quite sure how you want to accomplish this or how you
7 want to do this, but I am just at the point in my
8 notes where I have an element of his testimony which
9 I would like to move to strike. And I can wait and
10 sort of do all those at the end or I can note them as
11 we go along or argue them as we go along, however you
12 want to try that.

13 JUDGE ALBERS: You said all of them.

14 MR. MURPHY: I have a number of different
15 motions to strike. Most of them are about leading
16 sections.

17 JUDGE ALBERS: Well, since our thoughts are on
18 this particular topic right now, why don't you go
19 ahead and identify those.

20 MR. MURPHY: The first one that I would like to
21 identify is Exhibit 9 at page 5, lines 103 to 106.
22 In that Mr. Emmons refers to statements that were

1 made by the LaSalle County Farm Bureau at the July 12
2 meeting.

3 I mean, I understand that the meeting
4 itself, that record, is somehow in the record. But I
5 guess as coming from Mr. Emmons this is hearsay and I
6 would move to strike that entire sentence.

7 MR. FITZHENRY: May I respond, Your Honor?

8 JUDGE ALBERS: Let me read it right quick.

9 MR. FITZHENRY: Sure.

10 JUDGE ALBERS: Go ahead, Mr. Fitzhenry.

11 MR. FITZHENRY: Sure. Clearly, this, if
12 anything, goes to the weight of the testimony given
13 here by Mr. Emmons. Apparently, he was present at
14 the public hearing. This is what he heard. This is
15 what he is representing in testimony. Mr. Murphy is
16 free to, you know, point to other witnesses who heard
17 something different and that can be shared in
18 testimony if in fact it has been filed.

19 MR. MURPHY: But I believe that this is being
20 presented for the truth of the matter that the Farm
21 Bureau is supporting the primary line. And, you
22 know, I guess if the Farm Bureau were here, I would

1 question their basis for doing that. But I have no
2 way to do that. So I object to your support or
3 absence of support for this line being put into the
4 record by other witnesses.

5 MR. FITZHENRY: You can ask Mr. Emmons
6 questions about what he heard and why he believed
7 LaSalle County Farm Bureau supported Ameren's primary
8 route. You can test him on his understanding and
9 recollection of that meeting. That's what he heard.
10 That's what he is representing.

11 And then as Mr. Flynn pointed out
12 earlier today, it is common practice and acceptable
13 for experts to rely upon hearsay in presenting their
14 testimony.

15 JUDGE ALBERS: I will grant that motion to
16 strike.

17 MR. MURPHY: Thank you, Your Honor. The next
18 element that I would move to strike, and this
19 actually there is a series of pieces of testimony
20 that are attached to this. But the first one is
21 Exhibit 3.0 and it is at pages 5 to 6. It's the
22 carry over sentence that begins on line 111 and goes

1 to line 113.

2 JUDGE ALBERS: Which page is that?

3 MR. MURPHY: That would be pages 5 and 6, carry
4 over from 5 to 6.

5 JUDGE ALBERS: Line?

6 MR. MURPHY: It is the sentence that begins on
7 line 111 with the word "furthermore" and carries
8 through to 112 and 113.

9 MR. FITZHENRY: Okay. I am lost, Mr. Murphy,
10 bear with me.

11 MR. MURPHY: Your Honor, here is why. Let me
12 change the notation of my note to Exhibit 9.0.

13 MR. FITZHENRY: All right. I have used that
14 tactic myself.

15 MR. MURPHY: Exhibit 9.0, it is the carry over
16 sentence from page 5 to 6, line 111 to line 113. As
17 I said -- Your Honor, have you had a chance to read
18 it?

19 JUDGE ALBERS: Yes.

20 MR. MURPHY: Everybody agrees that I have the
21 right cite now? I object to this witness trying to
22 put in or make assertions about what the Illinois

1 Department of Natural Resources and the Illinois
2 Natural Preserve Commission say and believe, and I
3 also object to him attaching their letters. I think
4 there are serious questions about the basis under
5 which they issued those letters.

6 Those entities are entitled to
7 intervene in this matter and put in testimony if they
8 want. And I would question if they were here the
9 basis for the opinions they are rendering. But at
10 this point I object to Mr. Emmons trying to put in
11 their statements either through his testimony or
12 through the letters that are attached which are
13 attached to -- actually they are attached to
14 Mr. Cruse's testimony. So this is actually a
15 reference to Mr. Cruse's testimony.

16 And maybe we should wait until we have
17 Mr. Cruse here before we do that because he is the
18 one that attaches the letters.

19 MR. FITZHENRY: Your Honor?

20 JUDGE ALBERS: Yes.

21 MR. FITZHENRY: May I respond? This is
22 apparently Mr. Emmons's perception of what he

1 understands the letters to represent. Again, he can
2 be tested on the content of those letters and whether
3 the words that are provided in those letters actually
4 lead one to the conclusion that there was support for
5 this route by the IDNR.

6 Again, I am going to point out, not to
7 sound threatening, but there are numerous exhibits
8 attached to many parties' testimony, PROTED's
9 petition in fact, where apparently there are a number
10 of people who have indicated their support for
11 something different than the Ameren line. And I
12 guess unless they have all intervened here and become
13 parties, it is complainant's right to strike all
14 those petitions, and the other documents are also
15 going to face the same objections by Ameren.

16 MR. MURPHY: Well, I think the difference, Your
17 Honor, is that the sentence that precedes the one I
18 am trying to strike asserts that there will be
19 significant environmental impacts. So it is not
20 asserting his concern that IDNR or IB -- I am sorry,
21 INPC would object or take some action against this
22 route. He is asserting their position as substantive

1 evidence of their position.

2 MR. FITZHENRY: He -- I am sorry. Did you
3 finish?

4 MR. MURPHY: Go ahead.

5 MR. FITZHENRY: He is asserting what he
6 believes to be IDNR's position, that is correct.

7 MR. MURPHY: But he is asserting it for the
8 purpose of saying there will be substantial
9 environmental impacts.

10 MR. FITZHENRY: Again, that's something that
11 can be tested in cross examination.

12 MR. MURPHY: Not of this witness.

13 MR. FITZHENRY: Well, maybe that is Mr. Cruse.
14 Apparently, he is the one that struck the nerve where
15 you can take issue with his assessment about the
16 significance of environmental impacts.

17 MR. MURPHY: But I can't --

18 MR. FITZHENRY: In this sentence here all Mr.
19 Emmons is saying is, you know, I looked at these
20 letters and it appears to me that they oppose these
21 routes.

22 MR. MURPHY: I disagree with the

1 characterization of what he is saying.

2 JUDGE ALBERS: Let me look at this for a
3 minute.

4 MR. MADIAR: Your Honor, on behalf of the
5 Illinois 71 Resistors we join Mr. Murphy's motion to
6 strike and we would have some additional grounds we
7 would like to submit since this is a common element
8 that extends over to the Ottawa-Wedron line as well.

9 JUDGE ALBERS: Go ahead, Mr. Madiar.

10 MR. MADIAR: Sure, Your Honor. First of all,
11 the letters, the statement in our view is definitely
12 being sued for the truth of the matter asserted. It
13 is easy to read it. Furthermore, the PROTED 80
14 alternative routes were objected to in letters
15 written by IDNR and the Illinois Nature Preserve
16 Commission. He is trying to assert for the truth of
17 the matter asserted that that's what IDNR and that
18 other agency have done.

19 Now, the letters themselves, the
20 letters themselves are double hearsay. Here you have
21 a letter that was from DNR and this other agency,
22 then also written to Ameren's consultant Jeff Cramer.

1 And Jeff Cramer is not here to be questioned. He is
2 not a witness in this proceeding. He is the one that
3 received the letter in both cases.

4 MR. FITZHENRY: And -- I am sorry.

5 MR. MADIAR: I have got another one, too, so do
6 you want --

7 MR. FITZHENRY: Let me respond. Again, I think
8 these letters are attached to a different witness's
9 testimony. It is probably more appropriate, as to
10 whether or not they should be stricken, to deal with
11 that witness at that point in time.

12 But under Section 8-406 this
13 Commission is going to have to know whether or not an
14 agency like Department of Natural Resources and the
15 Natural Preserve Commission either support the routes
16 or they don't. That's part of the determination as
17 to what's in the public interest.

18 Frankly, in my mind it is almost
19 foolish to think that the ICC is not going to want to
20 see this information in the record. They are going
21 to support a route without the benefit of knowing
22 what other state agencies expect or what their

1 feelings are about a particular route? It is just
2 very curious to me that the Commission would even
3 think about ignoring this kind of evidence.

4 MS. VON QUALEN: Judge, may I jump in here?

5 JUDGE ALBERS: Why not?

6 MS. VON QUALEN: As much as I hate to support
7 Mr. Fitzhenry, I would say that Staff does typically
8 ask for the utility to provide letters indicating
9 whether or not DNR, other state and other federal
10 agencies have objections to particular routes. It
11 is, I believe, typically part of the analysis that
12 Staff and the Commission give to any route.

13 So I am not weighing in about what
14 Mr. Emmons, what weight Mr. Emmons is trying to give
15 this letter as to environmental problems, but the
16 letter itself, I believe, is appropriately included
17 in the record.

18 MR. MURPHY: Your Honor, can I just make -- I
19 will be very brief.

20 JUDGE ALBERS: Very brief because I am prepared
21 to rule.

22 MR. MURPHY: I understand. The other problem

1 with the letter is it refers to the route -- it
2 doesn't say what the route is. I believe based on
3 the other evidence we have in the record that it is
4 an incorrect characterization of the route that
5 PROTED has advocated. In that way it is actually
6 more confusing than relevant.

7 MR. MADIAR: Your Honor, I had some additional.
8 Now, I can sympathize with what Ms. Von Qualen is
9 saying, but what she is speaking to is an item that
10 an expert can look at for purposes of hearsay. But
11 as we all know, that particular letter that an expert
12 relies upon does not come in as substantive evidence.
13 When something is trying to come in for the truth of
14 the matter asserted, it is trying to come in as
15 substantive evidence.

16 So in response to Ms. Von Qualen, I
17 don't see that as -- you would want to allow it
18 perhaps as something that an expert relied upon, but
19 you still have to get it to whether it is authentic
20 and it is trustworthy.

21 I have here, Your Honor, a copy of an
22 e-mail from the Illinois Department of Natural

1 Resources that is a certified copy from DNR that was
2 sent prior by Mr. Jeff Cramer to NDR regarding the
3 letters that came about.

4 JUDGE ALBERS: Okay. Well, I think, let's stop
5 right there. I think right now for what Mr. Emmons
6 is testifying to in his prepared testimony, I am not
7 troubled by that. If we want to bring it up again in
8 the context of Mr. Cruse, if anyone feels it
9 necessary, please do so. But I am comfortable with
10 Mr. Emmons's testimony in this regard. So with that,
11 the motion to strike is denied.

12 MR. MURPHY: And, Your Honor, with this
13 witness, just to extend my motion, understanding that
14 it has been denied but just to make a record, at
15 Exhibit 16, page 18, he again makes reference in
16 lines 401 through 403, my motion and notes say same
17 arguments would apply to that.

18 MR. FITZHENRY: Could you identify the lines
19 again? I apologize.

20 MR. MURPHY: Yeah, it is lines 401 through 403.

21 MR. FITZHENRY: Thank you.

22 JUDGE ALBERS: Okay. And to the extent I

1 assume others have similar comments in response to
2 that motion?

3 MR. FITZHENRY: Yes, sir.

4 JUDGE ALBERS: In the same vein I would deny
5 that motion to strike as well.

6 MR. MURPHY: Thank you, Your Honor.

7 Q. Mr. Emmons, back to you, please go to
8 Exhibit 9.0 at pages 6 and 7 and specifically to
9 lines 130 to 143. Take a look at those. I believe
10 that was the kind of investigation you were
11 discussing earlier when you were discussing the
12 qualitative analysis of these routes?

13 A. That is correct.

14 Q. You discuss here the aerial photography and
15 all the people who were involved in this. I guess my
16 question is, after doing all these things, are the
17 material considerations for why Ameren chose this
18 route in this record? Did you put the material
19 considerations that came out of all this work into
20 the record?

21 JUDGE ALBERS: Could you explain that a little
22 bit more for me?

1 A. Yeah, I really don't understand the
2 question.

3 Q. Well, I guess I am asking, you are saying
4 that you did all these things, you did all this work.
5 And I understand your testimony to say that the
6 Commission should take into consideration how much of
7 these things, the expertise that Ameren has. I guess
8 my question is, of all of the facilities and people
9 and skills and mapping skills that you brought to
10 bear on the question of which should the preferred
11 route be, did you put the relevant information in
12 your testimony about why the route should be where
13 you say it should be?

14 A. I guess I don't understand. What kind of
15 evidence are we talking about?

16 Q. I guess I want to know, you describe all
17 these things that you did. I just want to know, if
18 you did all these things and you want the Commission
19 to make a decision on them and you want other people
20 to respond to them, you have got a whole long list
21 here. Are the important things, are the material
22 findings on which you base your petition to put the

1 routes where you want them put, did you put all that
2 stuff in the record? Is there stuff outside the
3 record that you are not asking the Commission to
4 consider here?

5 A. As far as we didn't put things such as
6 meeting minutes of routing, of the routing team is
7 obviously not in the record. What is, is what we
8 determined to be -- we put these before the public
9 and asked for their comments. Those comments are in
10 the record. And the various agencies that we
11 contacted, their opinions have been submitted into
12 the record.

13 Q. Okay. Would you give me a time line? You
14 said this project was initiated in June of 2005.
15 Could you give me a time line about when you came up
16 with the study area, when you came up with your
17 initial routes? I guess I want to figure out how did
18 you get from the study area to the initial routes you
19 show to the public? Can you kind of tell me in what
20 months different things happened?

21 A. Actually, the study area was determined
22 before I became an Ameren employee. The study was

1 initiated and the extent of the area were forwarded
2 to the aerial photography company before I started.
3 So that was actually sometime earlier in 2005, when I
4 began in June of 2005.

5 Q. Okay. So then taking it from June of 2005,
6 and again I want to get initially through when you
7 first presented these to the public which I think was
8 in March of 2006?

9 A. That is correct.

10 Q. Can you tell me sort of what things
11 happened either in what month or what calendar
12 quarter, how did you get from one point to the next?
13 For example, let's work backwards. You provided
14 routes to the public in March of 2006?

15 A. That is correct.

16 Q. When did Ameren for its internal purposes
17 establish those routes?

18 A. Those routes were established in fall, by
19 fall of 2005. They were discussed with various -- we
20 started to discuss with various governmental agencies
21 in fall of 2000 -- October and November time frame of
22 2005, as well as ICC Staff. That was our preliminary

1 route determination.

2 Q. Okay. So can you tell me just in general
3 terms from June of 2005 until those routes were set
4 what steps, for example, the ones you listed here in
5 your testimony at page 6 and 7, what of those steps
6 were taken before the routes were set in the fall of
7 2005?

8 A. We basically reviewed our aerial
9 photography for areas to avoid. That was the first
10 step. And when we did that, we sat down with the
11 individual route designers which were Mr. Murbarger
12 and myself sat down along with our real estate
13 supervisor, our real estate supervisor, and started
14 to dissect and determine what kind of route segments,
15 where it made the most sense, where did we want --
16 what made the most sense in avoiding the areas that
17 we identified as places to avoid, what was the best
18 areas to connect point A and point B.

19 MR. MURPHY: Actually, I moved over to the
20 large map. I don't know whether we have come up with
21 a way to identify this. But for the record do we
22 want to come up with an identification?

1 MR. FITZHENRY: Right. The record will tell us
2 otherwise. How about public hearing map?

3 JUDGE ALBERS: That's fine.

4 BY MR. MURPHY:

5 Q. Public hearing map, and I will tell you I
6 don't know whether you were at the July 12 hearing,
7 but Ameren provided this. It appears to be an
8 overhead photograph of the study area?

9 A. Yes.

10 Q. And let me ask you that question, is this
11 an overhead photograph of the study area?

12 A. Yes.

13 Q. Is this the overhead photograph that you
14 were dealing with when you designed your initial
15 routes?

16 A. Yes, that's a pretty close approximation of
17 the project study area.

18 Q. And when you came up with these routes, did
19 you actually drive them?

20 A. Yes.

21 Q. So you drove -- I have got to find it
22 now -- the Ameren Alt 1, I assume you drove that

1 route before you proposed it?

2 A. Yes.

3 Q. And you drove Ameren Alternative 2, right?

4 A. That is correct.

5 Q. And actually what is now the Ameren primary
6 route wasn't one of the first alternatives, was it?

7 A. That is correct.

8 Q. Let me take you to page 10 of Exhibit 9,
9 lines 210 through 212. I want to understand
10 particularly in an agricultural setting what the
11 impact of these poles is. So in each case, as I
12 understand your earlier testimony, you have got a
13 base which is about five to six feet in diameter, is
14 that correct?

15 A. For a tangent structure, that would be
16 correct.

17 Q. And if this -- and let me ask you, if it is
18 a corner structure, what kind of a base are we
19 talking about?

20 A. That would be about a seven to eight foot
21 pier for a large corner, dead end.

22 Q. So if it is in an agricultural setting, it

1 is in a crop, that's the footprint that is
2 interrupted, right?

3 A. Yeah.

4 Q. And if it is in a crop, if it is in a crop
5 area, is there any other activity that is barred or
6 limited by the existence of that pole and the line
7 over it in the field? Can you farm under it?

8 A. Yes, you can, underneath the wires and in
9 the easement around it.

10 Q. Is there any place other than the base of
11 the pole where you cannot farm?

12 A. I guess the approach to the pole. You are
13 going to have to move out away from the center line
14 at some point to go around the pole.

15 Q. So if you are driving a piece of farm
16 equipment, you can't just come up to it and turn
17 left. You have got to kind of go diagonal around it.
18 I understand.

19 A. Yeah.

20 Q. You are headquartered in St. Louis?

21 A. That is correct.

22 Q. How often have you traveled to LaSalle

1 County for this project or otherwise?

2 A. I have probably made 30 trips.

3 Q. And if you were guessing, how many days
4 have you spent in LaSalle County since June of 2005?

5 A. Sixty to 70.

6 Q. Let me ask you another question about your
7 earlier routes. I am going to hand you -- and I
8 apologize, I have come without copies so let me show
9 your attorney first.

10 MR. FITZHENRY: What's the source of that?

11 Q. Let me ask you, do you recognize what this
12 is?

13 A. Yes, that's a copy of the route map that
14 was handed out to the general public at the public
15 workshops.

16 Q. And in Ameren's opinion were these all
17 reasonable routes?

18 A. From existing conditions, yes, at the time
19 we felt those routes were all reasonable and
20 buildable routes.

21 Q. Existing conditions at the time. Have any
22 conditions changed? When you say existing conditions

1 at the time, I am wondering what you mean.

2 A. Part of the route, and we found this out
3 during the route, the public workshop period, we
4 determined that a section of the Alternative 2 route
5 shown as the red route for the LaSalle to Wedron
6 line --

7 Q. Yes, go ahead.

8 A. On this map, not on that map -- would it be
9 all right if I --

10 JUDGE ALBERS: Yes. I mean, there is that
11 laser pointer. It is up to you, whatever you are
12 more comfortable with.

13 A. Sure. Here we go. Okay. I don't want to
14 blind anyone. The original Alt 1 followed this same
15 route up to here.

16 Q. I am seeing if there is anything -- it is
17 between the squares S33 and S28 you are pointing at?

18 A. Yes, that's correct. And we were going to
19 follow this road and then head on to this property
20 line across, all the way across, the interstate,
21 interchange and then down to the side. We found that
22 that in this area right here, this county road,

1 during the public workshop period we talked to
2 several of the -- I personally talked to the land
3 owners that owned property in this area.

4 Q. And again for the record you are pointing
5 at a line between S28 and S32?

6 A. Yeah, along this county road between
7 Section 28 and Section 33 and to head over into this
8 area. But this mining operation, this quarrying
9 operation was moving and they had already informed
10 the property owners in this area that they were
11 moving their mining operation this direction, and
12 this road wasn't going to exist. It was going to be
13 quarried through.

14 Q. Okay. And again I am sorry to keep
15 interrupting you, but just to explain it in record
16 terms, the quarry that is on that picture is on the
17 east side of Section 33, was going to be extended
18 into the southeast quadrant of Section 28. Is that a
19 fair statement?

20 A. Yes, yes, which our line would be built in
21 a quarry and blasting -- it would be built in a
22 quarry and blasting zone possibly during our

1 construction period, so.

2 Q. What are some of the problems about
3 building in a quarry?

4 A. Well, an active quarry has to withstand
5 seismic -- we would almost have to build the line to
6 withstand the blasting, design it to withstand the
7 blasting and basically rather large seismic
8 disturbances. And you will be in the way of the
9 mining or quarrying operation. There may or may not
10 be anywhere to put the poles at the time.

11 Q. I think we will come back to that. The
12 exhibit that I gave you that shows the alternative
13 routes, you showed that what on here is, I believe,
14 is referred to as, I am sorry, as your Alternative 2,
15 changed from what's going on on this map in the sense
16 that it came north all the way to the line that shows
17 Mitchell's Grove Nature Preserve and was intended to
18 come back down to I-80 at what seems to be marked on
19 the map, am I right, between Section 31 and Section
20 36?

21 A. That would be correct.

22 Q. And then does it travel once it reaches

1 I-80, does it travel along the north side of the road
2 or the south side of the road?

3 A. It travels along the north side of the
4 road.

5 Q. Okay.

6 JUDGE ALBERS: Mr. Emmons, travels along the
7 north side of I800?

8 THE WITNESS: Yes.

9 JUDGE ALBERS: Is that based on that map or --

10 THE WITNESS: That's based on the one that is
11 on that exhibit.

12 MR. MURPHY: I'm sorry, I didn't hear your
13 question. It is probably important.

14 JUDGE ALBERS: I was just saying, you said
15 traveled on the north side of the road. I was
16 wondering if he was referring to I-80 on that map or
17 your map.

18 BY MR. MURPHY:

19 Q. Let me just ask, I-80 at the time that you
20 made the initial presentation to land owners, your
21 route, your proposed route along the I-80 corridor
22 ran along the north side of the road rather than the

1 south side of the road?

2 A. That is correct.

3 Q. Your current primary route runs mostly
4 along the south side of I-80, correct?

5 A. That is correct.

6 Q. I am sorry to keep jumping around on you.
7 We were talking about the impact to agricultural
8 fields and I asked you -- you said you had been in
9 LaSalle County a lot. I have a series of photographs
10 I want to show you?

11 MR. FITZHENRY: Are you going to mark these,
12 Mr. Murphy?

13 MR. MURPHY: I will mark them as -- I will mark
14 them as PROTED Cross Group Exhibit 1 and I will
15 eventually, particularly if these are admitted, I
16 will make sure that we get copies enough for
17 everybody in the room.

18 (Whereupon PROTED Cross Group
19 Exhibit 1 was marked for
20 purposes of identification as of
21 this date.)

22 But this is a series of nine photographs

1 and I would ask you to look at them and I will
2 represent to you that these are photographs of the
3 areas between crops in LaSalle County. But please
4 look at the photographs and become familiar with
5 them.

6 MR. FITZHENRY: Can I ask a question? Is it
7 intended to show all the areas in between crops
8 throughout the entire LaSalle County or just selected
9 portions of it?

10 MR. MURPHY: It is intended only to show
11 examples.

12 MR. FITZHENRY: Thank you.

13 BY MR. MURPHY:

14 Q. Mr. Emmons, now that you have looked at the
15 pictures, my question for you is, do those look to
16 you like typical sections between crops or what I
17 would call interruptions in the crop between
18 properties? Does that configuration look typical to
19 you?

20 A. I don't know about characterizing them as
21 typical. They look like -- if you say they are in
22 LaSalle County, I guess I have no --

1 Q. You don't need to take my word for it
2 because I am asking a little different question. My
3 first question, did those look like typical areas
4 between crops, between farm fields, to you?

5 A. I don't see -- I suppose they are between
6 farm fields, but I don't know what else I can say
7 about them.

8 Q. Have you seen interruptions between fields
9 in LaSalle County like that?

10 A. I suppose I have.

11 Q. Does anything about those interruptions
12 between crops look unusual to you?

13 A. None of them have any fence lines running
14 along them.

15 Q. Uh-huh. Are you aware of places in LaSalle
16 County where Ameren or any other power company has
17 poles between crops along property lines?

18 A. Not of the transmission variety, not that I
19 have seen.

20 Q. And are any of the pictures in front of you
21 transmission lines? You can look through all of
22 those.

1 A. Yes, the steel tower line, the steel pole
2 line, 345 line.

3 Q. And is there anything unique about -- the
4 difference between having a distribution line on a
5 property line and a transmission line on a property
6 line, what would the difference be?

7 A. Typically distribution lines are always
8 direct varied width pole. They have a very small
9 footprint to them, roughly, you know, one foot in
10 diameter or less of wood.

11 Q. And are there more of them or less of them?

12 A. Excuse me?

13 Q. I said are there more -- if it is a
14 distribution line, would there be more poles or fewer
15 poles?

16 A. A lot more.

17 Q. A lot more for a distribution line?

18 A. Yes.

19 Q. And, I am sorry, I am going to come back to
20 page 10 of your Exhibit 9.0 one more time for that
21 same line 209 -- I am sorry, 210 through 212. Is it
22 true that under any agricultural circumstance you can

1 -- strike that. I have already asked that question.

2 I will move on from that.

3 Would your earlier testimony that you
4 can farm under the lines, under the poles, everywhere
5 except the footprint and approaching the footprint,
6 would that be any less true along PROTED 80's
7 Alternative 1 than it is along Ameren's primary
8 route? Your testimony, I believe, talking about the
9 limited impact, and again I am looking at line 210,
10 your testimony is about limited impact in
11 agricultural areas, right?

12 A. Yes.

13 Q. I am sorry, I didn't hear you.

14 A. Yes.

15 Q. Is that sentence equally true along
16 PROTED's Alternative 1 route?

17 A. It depends on the exact placement of the
18 poles.

19 Q. Okay. So farming safety within the safety
20 exclusion zone is not prohibited?

21 A. Right.

22 Q. Okay. Is there some place you can put a

1 pole where farming is prohibited within the safety
2 and exclusion zone?

3 A. No. I guess that statement, there is no
4 difference.

5 Q. Okay. And then in fact only a small area
6 surrounding the transmission line structures is lost
7 to agricultural production. Does that differ
8 depending on where in the county the pole is placed?

9 A. It is different depending on where the pole
10 placement is, is it up next to, you know, in a road
11 area or is it out in a crop area.

12 Q. Okay. Well, if it is in a crop area, does
13 it make any difference where that crop area is? If
14 the crop area is just south of I-80, is that
15 different than if the crop area is along the PROTED
16 Alt 1 route, if they are both crop areas?

17 A. If part of the structure is out of the
18 cropland like it would be adjacent to a road and only
19 part of it, yeah, you would only lose part of the
20 footprint of the structure to agricultural production
21 versus if it is all the way in, into the crop area.

22 Q. And so if part of the structure was out in

1 the interruption between the crops, you would lose
2 less of the crop area than if it were all the way out
3 into the crops?

4 A. Right, that is correct.

5 MR. MURPHY: Your Honor, we have come to
6 another motion to strike moment. I would like to
7 direct your attention to Exhibit 9.0, page 21, lines
8 448 through 450. This references a statement from
9 the City of LaSalle engineer and I guess it is
10 hearsay and I would move to strike it. I believe it
11 is being asserted for the truth of the matter -- or
12 it is being proposed for the truth of the matter
13 asserted, and I think it is inappropriate hearsay.

14 MR. FITZHENRY: May I reply, Judge?

15 JUDGE ALBERS: Uh-huh.

16 MR. FITZHENRY: Once more, Mr. Emmons is an
17 expert in route selection. He has to rely upon other
18 people in the community to give him information as to
19 what can be done, what can't be done. Certainly, if
20 Mr. Murphy has evidence contrary to the statement
21 here, if this woman is able and willing to testify
22 here today, but this sort of thing is something that

1 an expert has to rely upon in formulating opinions.

2 MR. MURPHY: Mrs. Boroviak (sp) isn't here.

3 She isn't a witness. Asking more about what the
4 hearsay is doesn't get to the issue of whether it is
5 hearsay.

6 MR. FITZHENRY: She is not a witness. That we
7 agree. But, again, people like Mr. Emmons who are
8 designing routes have to go out and get information
9 from other people, other informed people, about what
10 he can do, what he can't do. And all of that comes
11 together to formulate his opinions.

12 MR. MURPHY: And I guess I don't agree that
13 this is being put here to support his opinion. I
14 believe it is being promoted here to support the
15 assertions stated here.

16 JUDGE ALBERS: Let me read this in context.

17 (Pause.)

18 MR. FITZHENRY: Judge, I have a follow-up when
19 you are finished.

20 JUDGE ALBERS: Okay. Mr. Fitzhenry, your
21 follow-up?

22 MR. FITZHENRY: I have a couple thoughts, Your

1 Honor. Ordinarily or often it is the case that with
2 prefiled testimony parties have an opportunity to
3 review that testimony well in advance of the
4 evidentiary hearings and often it is the case that
5 motions of this nature are filed and parties are
6 entitled to respond and so forth.

7 This particular testimony was filed a
8 couple months back and there was an opportunity to
9 strike this testimony. There is nothing about the
10 cross examination of Mr. Emmons here this afternoon
11 that I am sure struck a cord with Mr. Murphy as to
12 why -- how he thinks it appropriate to strike this
13 particular testimony.

14 And again in the interest of time,
15 which seems to be slipping away ever so quickly, if
16 Mr. Murphy and the other parties have objections of
17 this nature, we are certainly willing and open to
18 some sort of process where they file a motion, we
19 respond, they reply and it goes to you for a
20 decision. We can do this outside of the context of
21 the evidentiary hearing. Because, otherwise, I am
22 very much concerned that Friday is a day that we are

1 probably going to be here.

2 JUDGE ALBERS: I am not as troubled by this as
3 I was with the Farm Bureau statement. It is a not
4 report representing any particular entity's position
5 on the overall project or a particular route, for
6 that matter. And I would accept that in Mr. Emmons's
7 position that he would rely on such comments from
8 city planners or city engineers, rather.

9 So with that your motion to strike is
10 denied.

11 MR. MURPHY: Thank you, Your Honor. Similarly,
12 at page 22, lines 474 to 476, I would move to strike
13 the sentence there that refers to Ameren's
14 discussions with U.S. EPA or IEPA. I think these
15 statements are clearly put here to assert that those
16 two agencies don't have an issue with this. That's
17 the truth of the matter asserted. We don't even have
18 the statement. We have actually made a document
19 request for these, and I don't believe that it has
20 yet been responded to.

21 MR. FITZHENRY: Can I respond, Judge?

22 JUDGE ALBERS: Yes.

1 MR. FITZHENRY: Again, I am not aware of any
2 outstanding data request response, Mr. Murphy. But
3 more to the objection, again, this Commission expects
4 any utility that is asking for authority under
5 Section 8-406 and 8-503 to build a transmission line,
6 a generation project, to do these kind of things.
7 They are not done in a vacuum. Frankly, I would
8 suggest that, if anything, the utility would be
9 disingenuous if we didn't represent to this
10 Commission our contacts with federal and state
11 agencies about the propriety of the line or
12 generation plant or whatever is required.

13 I do agree with Mr. Murphy that to the
14 extent he wanted to test this issue, it should have
15 been tested in the context of discovery or rebuttal
16 testimony brought by him.

17 MR. MURPHY: I tried. I could show you the
18 data requests. They were relatively recent, but I
19 believe they have come due.

20 MR. FITZHENRY: Well, again, ordinarily
21 discovery disputes aren't the subject of an
22 evidentiary hearing, but.

1 JUDGE ALBERS: I would agree this is also
2 something a utility should do in considering
3 transmission line routes. And again with such
4 thoughts in mind, the motion to strike is denied.

5 MR. MURPHY: I guess I would make sort of an
6 addition to my motion. If I could move to strike
7 then with regard to the truth of the matter asserted
8 so that it is limited only to the -- the Commission
9 would accept them only as a basis for why Ameren
10 believes what it believes rather than the truth that
11 U.S. EPA or IEPA have no concerns about that route.

12 JUDGE ALBERS: Do you have the Commission
13 understanding of what Ameren understands?

14 MR. MURPHY: This is Ameren's understanding,
15 that it is not being accepted for the truth of the
16 matter asserted, about the agency's assertions.

17 JUDGE ALBERS: I will accept that this is
18 Ameren's understanding of what the agencies have
19 passed onto Ameren.

20 MR. MURPHY: Thank you, Your Honor.

21 Q. Moving on to Exhibit 16, your surrebuttal
22 testimony, Mr. Ins, if you would go to page 5,

1 please?

2 JUDGE ALBERS: Is this a motion to strike?

3 MR. MURPHY: No, this is actual cross.

4 JUDGE ALBERS: I will make note of it then.

5 BY MR. MURPHY:

6 Q. You say here in response to a question, Mr.
7 Bennett states -- I am reading the question to you --
8 "Mr. Bennett states on page 8 of your rebuttal
9 testimony that the placement of poles on what Ameren
10 and SHOCK refer to as the I-80 corridor is actually
11 on adjacent land, much of which is currently
12 agricultural land which would suffer all the same
13 impacts as other agricultural land the lines
14 traverse, do you agree?" You say, "No, Ameren's
15 preferred location along I-80 is within a few feet of
16 the interstate right-of-way fence."

17 Now, earlier I understood your
18 testimony that it is actually outside the fence, on
19 the opposite side of the fence from the highway,
20 correct?

21 A. That is correct.

22 Q. And it is never inside the fence, on the

1 highway side of the fence?

2 A. No, it is not.

3 Q. Can you define what a few feet is in
4 numbers?

5 A. In numbers we are proposing to place the
6 edge of our foundations within, typically, in
7 general, if you will, within two feet of the
8 right-of-way, within two feet of the right-of-way
9 fence, along the I-80 corridor for our tangent
10 structures. Now, this two feet or so is dependent
11 upon how straight that right-of-way line fence really
12 is. Is it going to introduce some shall angles into
13 our line and can it be avoided by moving, say,
14 another foot or two farther into private and
15 alleviate an angle structure, if that happens, I can
16 honestly say we will probably move it in a couple of
17 feet. But in general we are trying to put our
18 structures within about -- the edge of our
19 foundations within two feet of the right-of-way
20 fence.

21 Q. And in order to put it within two feet of
22 the highway right-of-way fence, did you need to get

1 some permission from the Illinois Department of
2 Transportation about using the interstate
3 right-of-way?

4 A. Yes, we do.

5 Q. And if you do not get that permission, how
6 far from the right-of-way fence does the pole have to
7 go?

8 A. We will be approximately -- we will have to
9 be approximately 15 feet in from the right-of-way
10 fence in order to satisfy our blow out requirement to
11 keep the conductor from overhanging IDOT's
12 right-of-way.

13 Q. And if there is a planted field on the
14 outside of the right-of-way fence, outside of the
15 highway part, if there is a planted field, is your
16 structure going to go in that field?

17 A. Most likely it will.

18 MR. MURPHY: On page 6 of the same testimony on
19 lines 115 and 116, I am afraid it is another motion
20 to strike. It is the sentence that begins at the
21 very end of line 115 where he says that they
22 anticipate getting the permit. I would move to

1 strike that as being speculation.

2 JUDGE ALBERS: Would you repeat the line number
3 please?

4 MR. MURPHY: Lines 115 and 116.

5 MR. FITZHENRY: It may be speculation. It may
6 not be speculation. It might be helpful if the
7 questions were asked of the witness as to the basis
8 for his opinion. And if it is speculation, it is
9 speculation. Based on his experience, then that's
10 another reason why it can be discussed in the
11 testimony.

12 JUDGE ALBERS: I would be interested in that as
13 well.

14 MR. FITZHENRY: Shall I ask him the question?

15 MR. MURPHY: I am trying to think what is the
16 most efficient way to do it. Why don't you let Mr.
17 Fitzhenry ask the question.

18 MR. SHAY: Is this voir dire?

19 MR. MURPHY: Yes, this is voir dire for the
20 purposes of -- you know what, I will withdraw this
21 motion. If you want to take it up on redirect,
22 that's fine.

1 MR. FITZHENRY: Thanks.

2 BY MR. MURPHY:

3 Q. Okay. On page 16 -- I am sorry, Exhibit
4 16, at page 7, lines 150 to 151, you say there that
5 the cost figure that PROTED 80 Alt 1 has been
6 subject -- I am sorry. Had the cost figure for
7 PROTED 80's Alt 1 been subject to finalization and
8 verification, it would have increased. By what
9 magnitude do you believe that it would have
10 increased?

11 A. I don't know. I would be entirely guessing
12 and speculating at that point.

13 Q. Okay. Back on page 6 at lines 127 through
14 130, you are, as I understand it, discussing the
15 numbers that Mr. Bennett put into his rebuttal
16 testimony about the relative cost of the lines,
17 correct?

18 A. That is correct.

19 Q. So you say the cost figures were not
20 verified and would not have included any special
21 structure costs, special access costs, clearing
22 costs, etc. Are you comparing that -- as I

1 understand it, you are comparing the number Mr.
2 Bennett put in against what came in in your original
3 testimony in exhibit -- Table 3.3, am I right about
4 that? Do you have your Table 3.3 available?

5 A. Yes, I have 3.3.

6 Q. When you say Mr. Bennett's number is apples
7 to oranges, his oranges are compared to Table 3.3 as
8 the apples? Is that what you are comparing it to?

9 A. Actually, 3.3 is -- we say that the LaSalle
10 to Wedron primary route in 3.3 is 19 million.
11 Mr. Bennett is actually comparing it to 19.4, 19.4
12 million.

13 Q. Does the 19.4 million come from changes
14 that Ameren made to its estimate since it initially
15 filed its petition?

16 A. Those cost figures I had no -- I was not --
17 I didn't request and I really didn't check against
18 those. Those may have been used by Mr. Nelson,
19 between Mr. Nelson and our consulting engineer, to
20 look at what our basis for recalculating right-of-way
21 costs were along the route.

22 Q. Is Exhibit 3.3 Ameren's calculation for the

1 estimated cost of its routes or, excuse me, Table 3.3

2 A. Yes, that is correct.

3 Q. And is there any place on that table where
4 Ameren includes the special structure cost, special
5 access costs, etc., that are referenced in your
6 Exhibit 16.0 at lines 127 to 130?

7 A. Where are we at? What was the line
8 reference?

9 Q. 127 through 130.

10 A. No, that one -- that includes we added some
11 special -- we added some costs that are shown in the
12 cost of the 138 kV line.

13 Q. Okay, I am looking at Exhibit 3.3 and I
14 guess I am wondering where are those costs, where are
15 those put in?

16 A. Those would be under the cost of the 138 kV
17 line.

18 Q. So the estimated project cost has that in
19 there?

20 A. Yes, that project cost was based on -- we
21 did a preliminary spotting based on our primary
22 route.

1 Q. Exhibit 2.

2 MR. FITZHENRY: Mr. Murphy, I will point out
3 that the information here is confidential and
4 proprietary.

5 MR. MURPHY: Yes, I apologize. Anybody who is
6 not on the confidentiality list should not be looking
7 at this. And I will try to avoid using the actual
8 numbers. I don't believe I will have to use any of
9 the numbers on here.

10 MR. FITZHENRY: Okay, thank you.

11 (Whereupon PROTED Cross Exhibit
12 2 was marked for purposes of
13 identification as of this date.)

14 BY MR. MURPHY:

15 Q. Mr. Emmons, are you familiar with PROTED
16 Cross Exhibit 2?

17 A. Yes.

18 Q. This is, I believe, an answer that you gave
19 to the Commission Staff that purports to show how the
20 costs on Exhibit 3.3 were developed?

21 A. Yes.

22 Q. In looking at the table that is attached to

1 exhibit, PROTED Cross Exhibit 2, is there anyplace on
2 that exhibit where you have line items that reflect
3 special structure costs, special access costs, etc.?

4 A. Those are actually -- that's in the --
5 that's actually in the cost per mile. The cost per
6 mile, it is included in the cost per mile for this
7 particular -- these costs per mile were based on
8 Ameren's preliminary spottings of our individual
9 routes, those types of costs per mile. And we
10 include some of those in those different line types.

11 Q. This is Cross Exhibit 3. This is, Your
12 Honor, another confidential exhibit.

13 (Whereupon PROTED Cross Exhibit
14 3 was marked for purposes of
15 identification as of this date.)

16 Mr. Emmons, are you familiar with PROTED
17 Cross Exhibit 3?

18 A. Yes.

19 Q. Can you tell what it is, please?

20 A. It is our line cost data on a per mile
21 basis.

22 Q. Okay. And where in that are these special

1 costs -- I am sorry, these special structure costs,
2 special access costs, etc.?

3 A. A lot of it is in right-of-way clearing and
4 prep that -- it is a lot of our access issues.

5 Q. Is it -- go ahead.

6 A. And also in the type of structures that we
7 were evaluating that we would have needed for that,
8 for our line routes along in these different areas.

9 Q. So that's expressed -- that's just
10 expressed as a number per mile for the entire
11 right-of-way clearing and prep? I mean, there is not
12 a break-out for anything along these particular
13 lines, is there?

14 A. No, there is not. But they are based --
15 but these figures are based on our individual --
16 these figures are based on our individual line
17 spottings for our line routes and then averaged
18 across -- averaged across my entire line route.

19 Q. And expressed as just an average per line?

20 A. Yeah.

21 Q. And you do this -- if you were to do this
22 for another line, it is your expectation that it

1 would not be the same single round number that
2 appears behind every one of the elements that comes
3 under the per mile cost data?

4 A. What is it?

5 Q. I am asking, I am looking under the per
6 mile cost data and trying not to disclose any of the
7 numbers on this exhibit. There is a single round
8 number that appears following every one of the
9 elements under per mile cost data?

10 A. That is correct.

11 Q. And it is your testimony that those are
12 specific to your routes?

13 A. Yeah, they have been adjusted for our --
14 they have been adjusted for the special conditions
15 that are along our routes.

16 Q. You talked earlier about the two-degree
17 difference for an angle structure, that an angle
18 structure appears any place where a line has more
19 than a two degree variance, is that your testimony?

20 A. That is correct.

21 Q. Assuming -- what's the average pole span
22 for poles that have an underbuild, do you know?

1 A. Underbuild, we are saying it is about 250
2 to 275 feet.

3 Q. And if there is no underbuild, the average
4 span is about 550 feet?

5 A. Yeah, 550, yeah.

6 Q. Can you tell me off the top of your head
7 that for a pole span of 275 feet, how far off the
8 center line would the next pole be to produce more
9 than a two-degree angle? How many feet? Would you
10 accept subject to check that it is 9.5 feet? Does
11 that sound right to you?

12 A. Yeah, it's in that neighborhood, yes.

13 Q. And would you accept subject to check that
14 for a 550-foot span, the second pole would have to be
15 about 19 feet off the center line to produce more
16 than a two degree angle?

17 A. If you say so.

18 Q. Well, I don't want to take up a lot of time
19 here and I am not very good at trigonometry. But I
20 guess I would ask during the break if you could
21 verify those just so we have those two distances in
22 the record.

1 Assuming the correctness of that, 9.5
2 for an underbuild and 19 feet for a regular span, do
3 those kind of line angles occur on what would
4 otherwise be straight routes? And, actually, just
5 going to answer that question, do those occur on
6 otherwise straight routes? Do you find that there
7 are other angles?

8 A. Yes, there are things you have to -- that
9 you might have to miss along the route and have to be
10 changed in the field.

11 Q. So it is possible that even along the I-80
12 route, the apparently straight part of the route, you
13 may run into the necessity for a number of angle
14 structures?

15 A. Based on property cornering and following
16 underground utilities.

17 Q. Okay. I would like you to look at Exhibit
18 9.6 which is an attachment to your rebuttal
19 testimony. It's a color map of some of the routes.
20 Do you have it?

21 A. Yes.

22 Q. Okay. Is Exhibit 9.6 the basis for the

1 route that you submitted to the Commission as your
2 Exhibit 3.1? And I would specifically ask you about
3 whether the green route on your Exhibit 9.6 is the
4 basis for the green route that was submitted on your
5 Exhibit 3.1.

6 A. It looks reasonably close to it.

7 Q. Do you know or do you recall whether this
8 is the basis?

9 MR. FITZHENRY: What was the basis?

10 Q. Whether Exhibit 9.6 or the route drawn on
11 9.6 was the basis for drawing 3.1.

12 A. 9.6 was for a different purpose than 3.1.

13 Q. Okay. What is Exhibit 9.6?

14 A. Exhibit 9.6 is the route alternatives that
15 were agreed to be -- that Ameren evaluated as a
16 result of the June 22, 2006, meeting with several
17 citizen groups and the City of LaSalle.

18 Q. So as of June 20, 2006, did I get that date
19 right?

20 A. I think it is the 22nd.

21 Q. 22, 2006. The green route follows the path
22 that's reflected on Exhibit 9.6, right? As of June

1 22, 2006, what Ameren considered to be its green
2 route is the route that's represented in green here
3 on Exhibit 9.6?

4 A. I think that the green route on here is a
5 little farther south than it was at the June 22
6 meeting. As we evaluated the route and improved the
7 route for environmental purposes, we moved it. We
8 moved it a little farther. The east-west section was
9 a little farther south.

10 Q. You mean SG5?

11 A. Yes, it was a little farther south than it
12 was.

13 Q. How about SG3 and SG4? Are those -- do you
14 believe that's where Ameren placed its green route at
15 the time -- actually at the time it filed its
16 petition? Was that Ameren's green route?

17 A. At the time it filed its petition, that's
18 pretty close. That's pretty close to where, I mean.

19 Q. Are there variances you recognize?

20 A. None that I recognize.

21 Q. Okay. You said you have traveled to
22 LaSalle County a lot. Have you walked SG, that green

1 route? Have you actually walked it?

2 A. Not in its entirety.

3 Q. What parts of it have you walked? And let
4 me start because I want to talk really about what's
5 represented on this map, SG3 to SG4. How much of
6 that part of the route have you walked?

7 A. Probably just about the SG3, the northern
8 half of SG3.

9 Q. Have you ever walked into or looked into
10 the quarries that are down there to the east of SG4
11 and down all the way through SG5?

12 A. At the time I was there, the quarry
13 personnel weren't there to escort me down. No, I
14 have not walked that down.

15 Q. Have you ever visually inspected the
16 quarries personally?

17 A. No, that was done by our civil structural
18 group.

19 Q. Do you know along between SG3 and SG4, the
20 part that you said you have walked, is there a
21 railroad bed there?

22 A. Yeah.

1 Q. Is there more than one?

2 A. I don't know the answer to that, if there

3 is more than one bed or not.

4 Q. And the bed that you are aware of, is that

5 the ICC line?

6 A. Yes, that's the line.

7 Q. And is it an active line?

8 A. No.

9 Q. Does a canopy of trees cover it?

10 A. Yes.

11 Q. Going back to the exhibit that we have

12 previously identified as being -- let me ask you one

13 more question. This SG3 on Exhibit 9.6, do you

14 understand that that runs all along the ICC line all

15 the way down to at least to where it -- actually, all

16 the way down to the next bend which appears to be

17 someplace in SG4?

18 A. Yes.

19 Q. Yes, it does?

20 A. Yes.

21 Q. I am going to put in front of you what we

22 previously identified with Mr. Ward, I am sorry, as

1 being a map which is a page from the biological
2 assessment. Do you recognize that map?

3 A. Yeah, I recognize it as being an attachment
4 to our biological assessment.

5 Q. Do you know whether that represents your
6 route? And I guess I would point you out to modified
7 August 13, 2007.

8 A. Uh-huh.

9 Q. Do you know if the line on this picture
10 represents your proposed route?

11 A. This part in here appears to be a little
12 bit far east.

13 Q. Okay.

14 A. But it is, I guess, fairly close but it
15 appears that that's a little --

16 Q. So you don't know whether this is your
17 route or not?

18 A. It's very close. I did not prepare this
19 exhibit or the biological assessment, so.

20 Q. Okay. And just to -- you do recognize the
21 area, right?

22 A. Yes.

1 Q. Am I correct that this big circle in the
2 middle is Vermilion View?

3 A. That is correct.

4 Q. And the tree lot that is on the southwest
5 corner of Vermilion View, that is what is referred to
6 in the testimony as Outlot 1?

7 A. That is correct.

8 Q. And am I correct that the quarry is the
9 area down here at the bottom of the picture and that
10 the quarry actually extends on beyond the bottom of
11 the picture if you were to extend it? Am I also
12 correct that the photograph itself is not from 2007
13 because there are currently houses built in Vermilion
14 View?

15 A. Oh, that is correct.

16 Q. And there is currently a lake that is in
17 the quarry section down near the bottom of the
18 picture?

19 A. Yes.

20 Q. And are these -- I know that this photo or
21 this photo is from the top down. This isn't flat, is
22 it? I mean, does this have any undulation?

1 A. Yeah, there are some changes in topography.

2 Q. Are there fill piles of dirt in the quarry?

3 A. I would assume so. It is under

4 reclamation.

5 Q. And is it common practice to move piles of

6 dirt around in quarries as the quarry work moves

7 around?

8 A. I guess. I would assume so. I am not an

9 expert on quarries.

10 Q. Okay.

11 MR. FITZHENRY: Judge, I wonder if this would

12 be an appropriate time for a break. We have been at

13 this two hours, and I think Mr. Murphy has gone a tad

14 over his 45 minutes estimate.

15 MR. MURPHY: For that I apologize.

16 JUDGE ALBERS: How much more do you have?

17 MR. MURPHY: Probably at the rate we are going,

18 21 minutes.

19 JUDGE ALBERS: All right. We will go ahead and

20 take a five-minute break.

21 (Whereupon the hearing was in a

22 short recess.)

1 JUDGE ALBERS: Okay, we will resume.

2 BY MR. MURPHY:

3 Q. Mr. Emmons, we were talking a little bit
4 about quarries, moving piles of dirt around quarries.
5 Is it your plan to build poles that are in the quarry
6 site?

7 A. Our plan is to skirt the edges of the
8 quarry as much as possible.

9 Q. But to the extent that there are spans here
10 that I see that appear to cross the quarry, is it
11 your expectation that there will be poles in the
12 quarry?

13 A. Yes, there will be.

14 Q. And if you build poles in the quarry, can
15 you build them on the dirt or how do you get a
16 foundation in the quarry?

17 A. We have to take -- we take a soil boring,
18 and our civil and structural design group will then
19 determine what kind of foundation is needed to
20 stabilize that structure.

21 Q. And is it your expectation that you can put
22 a stable structure in dirt that's been put there in

1 the last seven years, 7 to 10 years?

2 A. Yes, they can.

3 Q. And they wouldn't put it on the bed rock at
4 the bottom?

5 A. Depending on where -- it all depends on the
6 result of the soil boring. And until those are
7 taken, I said I can't -- I said I am not a structural
8 foundation engineer and I can't --

9 Q. So do you know that the borings have not
10 yet been done?

11 A. No, our borings would not -- we have done
12 no borings on this line.

13 Q. Are you aware that there has been continued
14 reclamation in the quarry as recently as 2007?

15 A. Yes, we knew that the reclamation is an
16 ongoing project.

17 Q. And as part of that reclamation are they
18 moving some of the dirt around in the quarry?

19 A. I don't know what their recent activities
20 have been. I would assume if they are reclaiming a
21 quarry, that earth is being moved.

22 Q. As part of your surrebuttal testimony you

1 proposed an exhibit which has been labeled as
2 AmerenIP Exhibit 16.6 which purports to be a
3 topographical map that includes places in the quarry.
4 Do you see that?

5 A. Yes, that is true.

6 Q. Okay. And this area -- and I am pointing
7 to the very middle of the quarry and just for the
8 record I will say there is a plate that says 570.
9 Have I got the right number there? Am I reading that
10 correctly?

11 A. Yes.

12 Q. And is it your understanding that that's a
13 pile of dirt?

14 A. From the aerial photography, I don't know
15 if that's a permanent or a temporary topographical
16 feature.

17 Q. Well, that's my question. So you don't
18 know whether it is permanent or temporary. Do you
19 know whether it is there now?

20 A. No.

21 Q. And this map was done in 2005?

22 A. That is when we received the aerial

1 photography and its digital terrain model.

2 Q. And in your testimony when you talk about
3 the difference in terrain or the difference in the
4 topography of the area for the crossing there, are
5 you relying in part on the numbers that are
6 associated with that pile of dirt?

7 A. That pile of dirt, now, that crossing right
8 there was not -- those numbers were the ones that
9 were determined along our actual center line.

10 Q. And does your actual center line cross and
11 did you reference in your testimony the 550 that's
12 there below your route line on part of the pile of
13 dirt?

14 A. What?

15 Q. I am asking when you cited different
16 topographical -- I guess I would point you toward
17 page 10 of your surrebuttal testimony.

18 A. Yeah.

19 Q. Are you in line in part on topographical
20 measurements that come from piles of dirt in the
21 quarry?

22 A. I don't know that they are piles of dirt.

1 Q. Are you relying on those topographical
2 features of the quarry?

3 A. I am relying on the topographical features
4 of the digital terrain model that was associated with
5 our aerial photography.

6 Q. And are those -- but those, those terrain
7 numbers, come from features inside the quarry, do
8 they not?

9 A. Yes.

10 Q. And do you know whether those features
11 exist today?

12 A. I can't say with any certainty that they
13 do.

14 MR. MURPHY: Your Honor, I need to move to
15 strike Exhibit 16.6 because the witness who is
16 providing it cannot provide a foundation that it is
17 an accurate representation of the area.

18 JUDGE ALBERS: Mr. Fitzhenry?

19 MR. FITZHENRY: Your Honor, again it goes to
20 weight. Early on page 10 of the surrebuttal
21 testimony -- Mr. Emmons is not hiding anything -- he
22 talks about acquiring the aerial photography in

1 October of 2005. 16.6 is clearly labeled October
2 2005. This is information that he relies upon in
3 forming the conclusions that he did. It is what it
4 is.

5 MR. MURPHY: And, Your Honor, we received this
6 exhibit as surrebuttal testimony. I don't have any
7 question that he was clear about it being a 2005
8 photo. My problem is these issues about the terrain
9 are critical, factual issues in the case on which the
10 Commission has to decide. I know -- well, I have
11 witnesses who would be prepared to testify if asked
12 that those features aren't there any more. So we
13 have testimony going into the record from a witness
14 who can't authenticate what you would normally
15 authenticate from a map like this, that it is a fair
16 and accurate representation of the area. He doesn't
17 know. And, you know, I have got witnesses who, if
18 asked, could tell you of personal knowledge that it
19 is not. I am not saying anybody did this purposely
20 but, you know, these maps get thrown out here like
21 they are facts. I don't think we have any basis to
22 say they are facts.

1 JUDGE ALBERS: Well, I think you have brought
2 into question how much weight we should give these
3 maps. I will give you -- I am not going to grant
4 your motion to strike. I will give you an
5 opportunity to ask your witness about the area as it
6 is now.

7 MR. MURPHY: Thank you.

8 Q. Going to page 13 of your surrebuttal
9 testimony at line 284 or thereabouts.

10 MR. SHAY: Where?

11 Q. I am sorry. Page 13 of his surrebuttal
12 testimony at line 284 and following. You talk there
13 about the 18-month long process that commenced in
14 June and went up to when the petition was filed in
15 November 2006. You testified earlier that you
16 presented -- I am sorry, I need to go back a little
17 bit.

18 Briefly, if you would go back to
19 Exhibit 9.6, I apologize for going backwards, this
20 was the route segments. You said that this was
21 discussed at your June 22 meeting that included
22 SOLVE. Is it your testimony that the grain routes

1 had already been developed by June 22?

2 A. Are we speaking of the southern green?

3 Q. The southern green.

4 A. Or the broken green?

5 Q. Either one.

6 A. The green routes were not completely

7 developed at that time. They were not in final form.

8 Q. So some of these routes might have been

9 what you discussed on June 22 but not the southern

10 green route?

11 A. There was a southern green route that was

12 discussed, but it did not go that far south.

13 Q. It would have been the route that's marked

14 with the broken line 320?

15 A. No, no. It wouldn't have went that far.

16 It wouldn't have went that far south. It was a

17 southern green, a solid green, but it would not have

18 went that far. It would not have went that far.

19 Q. Thank you. I apologize. I am going to go

20 back to where I was, page 13 of your surrebuttal

21 testimony and the 18-month process. You told me

22 earlier that you came up with your -- Ameren came up

1 with its alternatives in approximately autumn of
2 2005, is that your testimony? The alternatives that
3 were presented to the public?

4 A. Yes. Those were the ones that we started.
5 We came up with routes that we started discussing
6 with public officials, things such as site of road
7 and small adjustments. But in general those routes
8 were done in fall of 2005, but we went to speak to
9 different various governmental agencies about these
10 routes and we made small -- we made small adjustments
11 to them throughout the process before we issued them
12 for the public workshop in the spring of 2006.

13 Q. And at what point in that process did you
14 organize them in order of Ameren's first alternative,
15 second alternative? Was that also in autumn of 2005?

16 A. Yes.

17 Q. Okay. And I am bringing back to you the
18 exhibit that was marked, I believe, as --

19 MR. FITZHENRY: It was never marked.

20 MR. MURPHY: It was never marked? Here is the
21 exhibit we are about to mark as PROTED Cross Exhibit
22 3?

1 JUDGE ALBERS: Four.

2 MR. MURPHY: Four.

3 (Whereupon PROTED Cross Exhibit
4 4 was marked for purposes of
5 identification as of this date.)

6 BY MR. MURPHY:

7 Q. This was the map I showed you early in your
8 examination that you said were the routes that you
9 showed to the public in March of 2006, correct?

10 A. Yes.

11 Q. And when you invited the public in March --
12 well, I guess on this map these are shown as a
13 primary and a first alternative and a second
14 alternative, the primary being the one that is now
15 more or less Ameren's first alternative. When were
16 those primary, first, second alternative ranks
17 assigned within Ameren?

18 A. In October, October/November time frame.

19 Q. Okay. So from October until at least March
20 Ameren's primary route followed roughly the path of
21 what is now its first alternative?

22 A. That is correct.

1 Q. And what is marked as Ameren's second
2 alternative, being a third choice, is the route that
3 includes part of I-80, correct?

4 A. That is correct.

5 Q. But it is the north side of I-80?

6 A. That is correct.

7 Q. And it leaves LaSalle from the north and
8 doesn't come through any of these southern LaSalle
9 areas that the current primary comes through,
10 correct?

11 A. That is correct.

12 Q. And when you notified the public at those
13 meetings, you notified the public whose land those
14 would cross, didn't you?

15 A. All three, yes.

16 Q. All three routes?

17 A. Yes, that is correct.

18 Q. So you notified the -- presumably you
19 notified the owners on the north side of I-80?

20 A. Yes.

21 Q. But you didn't notify the owners on the
22 south side of I-80, unless they had land on the

1 north?

2 A. That is correct.

3 Q. And you didn't notify the folks from SOLVE
4 because this didn't cross Little Vermilion River any
5 place where they had a current interest, correct, for
6 the March meeting?

7 A. Unless -- we would have notified any SOLVE
8 members that would have owned land in or around the
9 routes. But as a group, no.

10 Q. After the March meeting Ameren reorganized
11 its routes and what used to be its second alternative
12 became its primary. What changed?

13 A. Overwhelming public response to our primary
14 route presented at the workshop.

15 Q. Was there some attribute of your primary
16 route that the public brought to your attention? You
17 have driven all these routes, haven't you?

18 A. Yes.

19 Q. Was there some attribute of your primary
20 route going into that meeting that the public brought
21 to your attention?

22 A. Yes. Most of the comments that were given

1 at that meeting, given at the public workshop meeting
2 as we presented in my surrebuttal, was that it passed
3 by all -- all of our routes passed by four elementary
4 schools.

5 Q. All of your routes passed by four
6 elementary schools?

7 A. Our two primary routes, Ottawa and the
8 PROTED -- and, I am sorry, and the LaSalle lines,
9 both the LaSalle lines passed by three elementary
10 schools and the Wedron to Ottawa line passed by
11 another, a fourth one.

12 Q. Sticking again with the LaSalle to Wedron
13 line, was that news to you?

14 A. We knew that it passed by.

15 Q. Okay. So was there any attribute of your
16 routes that changed other than the public outcry at
17 your March meetings?

18 A. Their response was so overwhelming.

19 Q. Was there any other physical or other
20 attribute of your routes that changed other than the
21 outcry at the March meeting?

22 A. No.

1 Q. You indicate at page 14 of this testimony
2 that you had -- that Ameren had personal and over 40
3 contacts made by Ameren consultants on the project.
4 Do I get your testimony right?

5 A. There was over 60 with Ameren employees and
6 there were 40 with --

7 Q. Oh, I am sorry, you are right, 60 meetings,
8 workshops, contacts with citizens groups?

9 A. Yes.

10 Q. How many of those were with people who
11 owned land south of I-80?

12 A. People that owned land, I would say that
13 there were two for sure and then, of course, anybody
14 that owned land south of I-80 that also would have
15 been invited to attend, that also owned land north on
16 one of the --

17 Q. Are you aware of anybody who owned land on
18 both the south and north side?

19 A. I am not.

20 Q. And when was the first contact you had with
21 anybody who owned land south of I-80?

22 A. June 1 of 2006 was the first meeting with

1 SOLVE, the first contact that we had had as far as a
2 formal meeting.

3 Q. And at what point in that process was the
4 route developed that went along the south side of
5 I-80? When did that route actually come into being?

6 A. The final route that was submitted?

7 Q. Yes.

8 A. The final route as it was submitted, August
9 of 2006.

10 Q. Okay.

11 A. Roughly maybe August or September of 2006.

12 Q. When was it finally determined by Ameren to
13 be -- when did Ameren first declare it to be the
14 primary route?

15 JUDGE ALBERS: Just so I am clear, you are
16 talking about what got filed here?

17 Q. Actually, no. I appreciate the
18 clarification. When did Ameren publicly state that
19 the current primary route was its primary route? Was
20 it at any time before it filed with the Commission?

21 A. In essence, I said there was maybe very
22 minor changes but basically in, I said it was, the

1 August meeting with the city of LaSalle.

2 Q. Going back to your testimony, on page 17 at
3 the bottom of the page, lines 380 through the bottom
4 of that page and at the top of the next, you quote
5 from a letter that says, and your assertion here as I
6 understand it is that the problem with soil sliding
7 that Dr. Jasiek had described was addressed by a
8 geomembrane fabric. Do you see that?

9 A. Yes.

10 Q. Is that your testimony?

11 A. Yes.

12 Q. Do you know where the geomembrane fabric is
13 physically? Do you know where in the land it is?
14 Could you point to it on a map?

15 A. Near the Nath (sp) property.

16 Q. Okay. I am going to bring back more of the
17 same pictures that were part of the study, and do you
18 have the picture I brought here first? Because I
19 would point out to you they continue on the front and
20 the back. So if you can tell me exactly where the
21 geomembrane is on these maps, I would appreciate it.

22 MR. FITZHENRY: Excuse me, Mr. Murphy, which

1 exhibit -- is this a PROTED Cross Exhibit?

2 MR. MURPHY: No, this was included in the
3 biological assessment and this is a continuation of
4 the pages we pointed out earlier at the end of Mr.
5 Ward's testimony.

6 MR. FITZHENRY: Okay. I recall that. Thank
7 you.

8 BY MR. MURPHY:

9 Q. Maybe I can ask you a question that will
10 focus you on this. Do you know whether the Nath farm
11 is on the back of the first map I gave you, so what's
12 marked page 2 of 25? If I told you the farm was here
13 in the middle of that panel, would that --

14 A. Yeah, that's where I was going to. I was
15 on that. And I knew this was -- I knew it was where
16 the line straightened back out to head back in.

17 Q. Can you say for the record exactly where
18 that geomembrane is placed?

19 A. Not to a specific site, no. I said I know
20 where the Nath property goes next to the quarry.

21 Q. Do you know whether the geomembrane is
22 anywhere near the place that your route would show a

1 corner pole going?

2 A. I would assume it was along that property
3 line that is just --

4 Q. Well, with all respect, I don't want you to
5 assume.

6 A. I don't know.

7 Q. If you know whether it is anywhere near the
8 pole that your route would suggest goes there at the
9 south side of the property.

10 Again, Your Honor, I am in a quandary.
11 He is testifying about the geomembrane, and I have a
12 witness who can tell you that it is not near there.
13 But this witness is putting in testimony and doesn't
14 have personal knowledge to support it.

15 One last question, Mr. Emmons. When
16 Ameren inspects its transmission lines, does it do it
17 via aerial patrol or by walking or by driving the
18 lines?

19 A. We actually employ all.

20 Q. I am sorry?

21 A. We actually employ all those, walking,
22 aerial, actually probably more driving and aerial.

1 MR. MURPHY: Thank you, Mr. Emmons. My
2 apologies to the assembled masses. That's all.

3 JUDGE ALBERS: That's all, okay. Before we
4 quit with you, Mr. Murphy, your four cross exhibits,
5 do you want those admitted?

6 MR. MURPHY: Yes. I move for the admission of
7 -- I am sorry, I have one more question. I
8 apologize.

9 BY MR. MURPHY:

10 Q. Mr. Emmons, the original cost for the
11 primary route was \$19 million, is that your original
12 testimony?

13 A. That is correct.

14 Q. Then after adjustments to the cost of
15 right-of-way in the amount of \$600,000, those were
16 the adjustments you made in your surrebuttal
17 testimony, am I correct?

18 A. I didn't make those.

19 Q. For your own route, for Ameren's primary
20 route?

21 A. I don't think I address that in my
22 surrebuttal.

1 MR. FITZHENRY: Mr. Murphy, another witness,
2 Mr. Nelson, testified --

3 MR. MURPHY: I apologize. Now I will move for
4 the admission of my four cross exhibits.

5 JUDGE ALBERS: Any objection?

6 MR. FITZHENRY: I have a question about the
7 group exhibit of pictures. I want to be sure and be
8 clear about the purpose it is being offered, just to
9 ask Mr. Emmons whether or not he has seen examples of
10 spaces between the cropland that he walked in LaSalle
11 County that's depicted in the pictures.

12 MR. MURPHY: That is the purpose of their
13 admission with regard to this witness. I may ask
14 another witness whether they are in fact examples of
15 areas in LaSalle County.

16 MR. FITZHENRY: We will cross that bridge when
17 we come to it, but I have no other objection to the
18 other exhibits. Thank you.

19 JUDGE ALBERS: Any other objections? None.
20 When can you have copies of these to everyone?

21 MR. MURPHY: Tomorrow.

22 JUDGE ALBERS: Can you provide a public version

1 of Cross Exhibits 2 and 3?.

2 MR. MURPHY: I can. It may take more than til
3 tomorrow.

4 JUDGE ALBERS: That's okay. Okay. PROTED
5 Cross Exhibit 1, Cross Exhibit 2, Cross Exhibit 3 and
6 Cross Exhibit 4 are admitted.

7 (Whereupon PROTED Cross Exhibits
8 1, 2, 3 and 4 were admitted into
9 evidence.)

10 MR. FITZHENRY: Just to be clear, Your Honor, 2
11 and 3 are confidential.

12 JUDGE ALBERS: You beat me to it. Yep, it is.

13 Who wants to be next? Go ahead,
14 Mr. Zukowski.

15 CROSS EXAMINATION

16 BY MR. ZUKOWSKI:

17 Q. Mr. Emmons, I am Walt Zukowski on behalf of
18 LaSalle-Peru Township High School. In Exhibit 3.0,
19 your direct testimony at lines 83 to 84 and more
20 specifically in the surrebuttal testimony filed as
21 Exhibit 16.0, lines 471 to 475, you state that the
22 District's proposed modification of PROTED Alt 1

1 would require approximately 700 feet of existing 138
2 kV line be rebuilt as double circuit structures until
3 the proposed routes leave the existing center line.

4 Have you located that yet?

5 A. What was the line reference? I'm sorry.

6 Q. It was 471 to 475 in 16.0.

7 A. That is correct.

8 Q. Why does it have to be rebuilt as a double
9 circuit structure? Why is that the only alternative
10 to running a line through that area generally?

11 A. Where that line is shown is just adjacent
12 to the state road -- I mean to the county road,
13 Vercuglia Drive, and there is no other -- I looked at
14 that exhibit. What exhibit is that?

15 Q. You are referring to the High School's
16 Exhibit 1.1?

17 A. Yes, it is High School Exhibit 1.1. The
18 line that is drawn there is shown directly on --
19 directly following our existing 138 kV line route.

20 Q. So your existing 138 kV line in terms of
21 looking at Exhibit 1.1 there and following through, I
22 believe, what is Alt 1, that portion, that northern

1 portion of that which runs in a northwesterly
2 direction and is blue and purple, for lack of a
3 better phrase, is that what you are referring to,
4 that segment there?

5 A. Sorry, I don't have that in color. I don't
6 have that one in color.

7 Q. Oh, I am sorry. I have the colorized
8 version here. So just so we are clear on what we are
9 talking about, are you referring to a line that runs
10 north of Vercuglia Drive that is part of Alt 1 that
11 on a colorized version here is blue and purple?

12 A. I was speaking of -- I guess I was seeking
13 of the alternative, the alternative route.

14 Q. So you are referring instead to the black
15 portion which is north of Vercuglia Drive on that
16 Exhibit 1.1, is that correct?

17 A. Yes, yes. That's the north/south
18 alternative.

19 Q. And you currently have, I think you said, a
20 138 kV line there?

21 A. Just on the north side of Vercuglia Drive.

22 Q. And so my question was, if your testimony

1 in response to the question was that it would have to
2 be rebuilt if that was going to happen, if we were
3 going to have this line extending as the High School
4 is recommending it?

5 A. That is correct, for this -- let me
6 clarify. Between where it comes out to Vercuglia
7 Drive to the point at which it leaves the north side
8 of Vercuglia Drive.

9 Q. Okay. There is a -- it turns in a
10 northerly direction at that point for a distance and
11 then turns westerly?

12 A. Yes.

13 Q. Northwesterly after that to hook up with
14 what is currently Alt 1, is that correct?

15 A. That is correct.

16 Q. So you say they would have to be rebuilt
17 and there is no line at that point right now, is that
18 correct, covering the black area on the LaSalle-Peru
19 option?

20 A. The black line?

21 Q. Yes.

22 A. Yes, that's where our existing line is.

1 Q. So you have an existing line there now?

2 A. Yes.

3 Q. And so it would be rebuilt from a single
4 circuit structure to a double circuit structure, is
5 that what you are saying?

6 A. Yes.

7 Q. So are you telling me that Ameren has a
8 line all the way across Vercuglia Drive from Airport
9 Road, sometimes known as Charter Street, to the point
10 of exit of your primary route from your property
11 across Vercuglia Drive?

12 A. Line 15, I can see -- we have the existing
13 line comes into this side, to this bay of the
14 substation, to this bay of the substation, and goes
15 out and goes up this side of the road. Our existing
16 1556A goes up there.

17 Q. Follows that direction?

18 A. Yes.

19 Q. So would it be a matter of reconfiguring
20 or modifying or adapting the existing poles or
21 structures that are there now to accommodate an
22 additional line, is that what you were referring to

1 in your response?

2 A. No, actually the poles would have to be --
3 those poles would have to be replaced. There is no
4 way that they would withstand the loads of our new
5 line plus the load of the existing line. Those
6 structures would need to come down and new ones would
7 be placed along that part of the line.

8 Q. You estimated an amount of expense in your
9 testimony associated with this, I believe on line
10 474. So your estimate would be approximately
11 \$100,000 to accomplish that, is that correct?

12 A. Roughly.

13 Q. Have you actually done calculations to know
14 the exact amount that it would cost?

15 A. Basically, that's just done on a per --
16 it's a 700-foot span, so basically it would be two --
17 it would be just a tangent structure and two dead
18 ends, but it would be a specialty dead end.
19 Basically, that would be an additional cost that we
20 would need beyond what just our single circuit line
21 would cost in that area. That would be the
22 additional cost.

1 Q. What do you base your estimate on?

2 A. Just typically what a couple of additional
3 structures, double circuit, minus the cost of a
4 couple of structures, single circuit. As I said, it
5 is strictly a rough estimate. It is just a rough
6 estimate.

7 Q. So it is conceivable that the cost would be
8 significantly less than that?

9 A. I can't see that a two double circuit, two
10 double circuit dead end, it would have to have a dead
11 end structure, a dead end structure on our line and a
12 -- no, I can't say that it would be significantly
13 less than that. As I said, that was just a rough
14 estimate, but I would say that there is not a lot of
15 potential for cost saving there.

16 Q. Later in your testimony in response in the
17 answer to the same question, Question 37, in line --
18 the sentence that begins on line 479 and continues on
19 through the end of that page and on to the top of the
20 next page, you talk there about a concern about there
21 being a narrow, heavily traveled roadway which could
22 lead to vulnerability to single vehicle accidents.

1 A. Yes.

2 Q. Currently do you have a single pole system
3 for carrying your lines on the north side of
4 Vercuglia Drive?

5 A. Yes.

6 Q. So following the suggestion of the High
7 School would make it no more vulnerable than your
8 current arrangement that you have in that area, is
9 that correct?

10 A. We are adding this line to add a second 138
11 kV source in the LaSalle County area. That's the
12 whole reason behind -- that's the primary reason, I
13 won't say that's our whole reason, but our primary
14 reason is to complete the loop through the LaSalle
15 County area.

16 And, yes, we do have a single -- we
17 have a single pole line in there now. But if our
18 future -- but what it is, it takes -- it removes both
19 lines at once. If we have -- with our new
20 reliability project, if we lose one line, then we
21 have another line to complete the loop or complete a
22 set, have a second source into the line if we lose --

1 a second source into the sub if we lose the first
2 line.

3 I guess what you are saying is, yeah,
4 we have a single pole line along a heavily traveled
5 road as our only source now, but we are trying to
6 improve that. And that would take away one of our
7 primary benefits of adding this second line. It
8 would expose us to losing both sources at once and we
9 would not have any real benefit of adding a second
10 line into the substation.

11 Q. Correct me if I am wrong, Mr. Emmons, but I
12 thought I heard you say that statistically it is not
13 any more likely that there is going to be an accident
14 on a pole on North Vercuglia Drive if you placed it
15 as the High School has suggested than it is
16 currently, is that correct?

17 A. I guess the chances for an accident are the
18 same no matter what.

19 Q. Okay. Looking at the area north of
20 Vercuglia Drive there, generally it seems to have no
21 structures immediately adjacent to Vercuglia Drive
22 other than the poles there. There appears to be an

1 abandoned railroad right-of-way and other brush,
2 would you agree with that?

3 A. Brush, yeah, brush, abandoned railroad,
4 parking area.

5 Q. To address the concern you raised here just
6 before as to accident risk, aren't you exposed to
7 that same risk throughout your entire line that you
8 are proposing here or would it only be out to the
9 corner with Vercuglia Drive and Airport Road? Your
10 concern seemed to be that you were carrying both 138
11 kV lines on the same pole. Where would they
12 separate?

13 A. Currently? Currently they won't be
14 together. With our primary route they would not be.

15 Q. Under the alt routes?

16 A. Under our alternative route, under our
17 alternative routes we would come out of the other
18 substation bay and we would go directly across to the
19 abandoned railroad track, is where we are -- well, I
20 am sorry, they would go around out the other side,
21 across the school property and then across to the
22 abandoned railroad routes. They would go out the

1 other side of the substation.

2 Q. I am focussing on Alt 1 here as opposed to
3 Alt 2. So you seem to be concerned that you would
4 have two 138 kV lines going on the same pole under
5 LP's proposal, traveling in a northwest direction on
6 Vercuglia Drive, right?

7 A. That is part of our concern.

8 Q. If they were to be on the same poles, is it
9 your view that they would be on the same pole for the
10 duration of the line all the way to Wedron or would
11 they separate at some point before that, the two
12 lines? There is an existing line there now, right,
13 which goes somewhere?

14 A. Yeah, that lines does not. That line does
15 not go to Wedron.

16 Q. Okay. So how long would they be combined
17 on the same pole?

18 A. Oh, they would not. Those two lines
19 wouldn't, under our Alt 1 -- under our Alt 1? Under
20 our Alt 1 route would never be combined on one pole.

21 Q. Given what the High School has suggested as
22 its alt modification to your Alt 1...

1 A. Uh-huh.

2 Q. ..how far would the two lines be combined
3 on a single pole? If LP wanted to hook up to your
4 Alt 1 through the black line north of Vercuglia
5 Drive...

6 A. Yeah.

7 Q. ..how long would they be combined?

8 A. About 700 feet.

9 Q. Okay. After that 700 feet what would
10 happen?

11 A. They would -- one line would turn. The new
12 line would turn and go up to the abandoned railroad
13 right-of-way.

14 Q. All right. So we are only talking about
15 700 feet here, correct?

16 A. That is correct.

17 Q. And you have a right-of-way for that entire
18 700 feet currently because you have a line there
19 existing at the current time, is that correct?

20 A. I don't know what our easement rights are
21 on that line. I don't know if it is a private
22 easement or if it is on county road right-of-way.

1 Q. If you are concerned about doubling up two
2 lines on one pole for that 700 feet, would it not be
3 possible to just suspend separate poles for this line
4 so that they aren't both on the same line for that
5 700 feet?

6 A. I suppose it would be possible.

7 Q. And if you did that, would that not
8 eliminate your concern about one vehicle hitting a
9 pole, knocking out both lines?

10 A. I suppose it could.

11 Q. Are there any double circuit lines
12 currently proposed in the LaSalle to Wedron line?

13 A. Yes.

14 Q. Are you aware of any car accident impacting
15 the poles that are currently on Vercuglia Drive?

16 A. I personally have no knowledge of it.

17 Q. On Exhibit 16.13 which I believe is a
18 response to a Staff question regarding underground
19 placement, I believe you indicate that the Company,
20 Ameren, has no equipment or personnel trained in
21 maintaining underground transmission lines, is that
22 correct?

1 A. That is correct.

2 Q. Do you have any underground transmission
3 lines in the state of Illinois?

4 A. Not to my knowledge.

5 Q. In your testimony back on Exhibit 16.0, the
6 answer to the same question we have been talking
7 about before -- strike that.

8 On the next page on Question 38 in the
9 answer, line 495, you are talking there about the
10 cost to be increased by underground lines here, I
11 believe, is that correct?

12 A. Yes.

13 Q. And you estimate that the cost would be
14 between 1.75 million and 3.15 million dollars, is
15 that correct?

16 A. That is correct.

17 Q. You are referring then to the 700 feet in
18 question or you are talking about a different length
19 of line?

20 A. That would be a different -- that would be
21 from where -- the substation to where we leave
22 Vercuglia Drive on our primary route which would be

1 to the -- which would be going to the east.

2 Q. Where you leave Vercuglia Drive?

3 A. Yeah, with our primary route.

4 Q. So our question, though, was as to the LP
5 Alt route and Ms. Peterson's testimony, responses to
6 questions, your response is in relationship to that?

7 A. I was responding to her proposal for
8 underground line, underground transmission line, for
9 one-third -- page 6 of hers -- that was for one-third
10 of a mile along the school -- as it crossed the
11 school property.

12 Q. So then your response here is to Alt 1 as
13 proposed by Ameren, if you were to put it underground
14 as it crossed the High School's property, is that
15 correct, as opposed to the route Ms. Peterson had
16 proposed on behalf of the High School?

17 A. That's for the one-third -- that's for
18 one-third of a mile of underground. That's roughly
19 the cost of a third of a mile of underground with
20 termination structures. The reference to the
21 location is, it should say, across the school
22 property, not the east of 271. It should be the one

1 to the north.

2 Q. So in that one-third of a mile where are
3 you beginning that at, at the substation?

4 A. At the substation.

5 Q. And then you are following Alt 1, is that
6 correct?

7 A. Yes.

8 Q. Out to the corner with Airport Road to
9 where it turns north?

10 A. Yeah, to where it turns -- yeah, until it
11 turns. Is that about a half a mile?

12 Q. What do you base your estimate of cost on?

13 A. That's just the six to ten times for the
14 amount of overhead line.

15 Q. Did you actually calculate the cost for
16 this route to go underground for Alt 1?

17 A. No, it is just strictly following the rule
18 of thumb of 6 to 10 times of the price of overhead.

19 Q. Going back to Exhibit 16.13 again for a
20 moment if I could, I apologize for skipping around,
21 we were talking about your response to the Staff
22 request. We were talking previously about equipment

1 and personnel that the Company had regarding
2 underground lines and the absence thereof.

3 In the bottom half of that answer you
4 talk about that it is not uncommon for repairs of
5 such lines to be made at a manufacturer's facility.
6 It just requires removing the failed section and
7 sending it off-site for an extended period of time.
8 This would result in the line having an extended
9 outage.

10 Do you have experience in dealing with
11 underground lines from other situations?

12 A. I haven't designed underground -- I haven't
13 designed an underground line, but I worked with a
14 company that did do a lot of underground work and
15 that was also -- and also we consulted with our
16 consulting engineer and that's a common practice that
17 is used in the industry.

18 Q. Are you aware that there are firms out
19 there that you can subcontract with to do repair work
20 of this nature?

21 A. I assume there are.

22 Q. In your answer here you said this would

1 result in the line having an extended outage, and an
2 extended outage because the section of line that's
3 damaged has to be removed and taken off-site. Are
4 you suggesting that there would not be a replacement
5 piece of line put in here at least as a patch until
6 the other part is repaired?

7 A. That is something that can be done. At an
8 additional cost you can put a redundant -- you can
9 put in a redundant circuit but that even pushes the
10 cost of the line even -- the cost of the underground
11 line even higher.

12 Q. What I understand you are saying is if
13 somehow the line is damaged, that a group of people
14 would have to come in, dig it up and remove the
15 damaged portion of the line, is that correct?

16 A. Or they would go to a termination structure
17 and pull it out of the conduit.

18 Q. So some part of the line is removed, is
19 that correct?

20 A. Yes, that is one method for replacement or
21 for repairing a damaged section of line.

22 Q. And if they removed that portion, would

1 they not replace it with another substitute piece of
2 line so that the line is up and working again?

3 A. If one -- they could do that if it were
4 available. But, as I said, it is not an instant --
5 it is not, like we say, an instant fix. That piece
6 of conductor would have to match, would have to match
7 and you would have to install it. It is not a short
8 fix, as you will, an instant fix. I mean, it takes
9 time to pull in, to pull in cable of this size, and
10 possibly be -- and I don't know, not having designed
11 this line for it, possibly oil-filled conduit. It is
12 not as quick as one might think it is for such a
13 repair.

14 Q. But the Company does have repair crews for
15 aboveground lines, correct?

16 A. That is correct.

17 Q. And so even if Ameren doesn't have repair
18 crews for underground lines, it is reasonable to
19 assume that this exists as a service in the industry,
20 does it not?

21 A. Yes, it does.

22 Q. And wouldn't it be reasonable to assume

1 that a repair crew coming to fix an underground line
2 would check those things out or have input before
3 they come to the site?

4 A. I don't know what they would.

5 Q. When they came to the site, wouldn't it be
6 reasonable to presume that they would bring the
7 materials in order to repair it?

8 A. I am not -- as I said, I am not an expert
9 at underground repair. I don't know what they would
10 know and what they would ask.

11 Q. Earlier in response to some of Mr. Murphy's
12 questions, I believe you were talking about the
13 original primary route as it was proposed by Ameren
14 and that subsequently it was changed to a different
15 primary route. My recollection of your testimony was
16 that it was due primarily to overwhelming number of
17 comments from property owners and the proximity to
18 four elementary schools, is that correct?

19 A. That is correct.

20 Q. So to put it bluntly, Mr. Emmons, then
21 what's wrong with the High School's proposed alt
22 route here? You have two alt routes that you

1 proposed that cut directly across the High School's
2 property. It is my understanding that none of the
3 alt routes went across, although they were adjacent
4 to four elementary schools potentially. The High
5 School situation is much more impacted by these alts
6 even than those would be because you are proposing
7 two routes to go directly across the High School's
8 property. What's wrong with LP's Alt route?

9 MR. FITZHENRY: Judge, I would ask that Mr.
10 Zukowski rephrase his question. There were a number
11 of statements, argumentative perhaps. Certainly the
12 LaSalle-Peru approves its position. I would just
13 like a simple question to the witness.

14 Q. What's wrong with LP's Alt route?

15 A. The alternate as it is exactly drawn would
16 impact not only the LaSalle substation and put it in
17 a vulnerable situation, but it would also cause us to
18 take an outage on the LaSalle substation which is
19 very -- which is a very difficult substation to get
20 out of service, given that that's its only 138 kV
21 source, but it would also impact a second substation
22 located north of Vercuglia Drive on the Air Products

1 property which is a 24/7 operation that we need to
2 keep in service continually, and it would also impact
3 that as well.

4 Q. How would it impact on the Air Products?

5 A. That we would need -- it is tapped off of
6 the existing line of 1556A that currently feeds the
7 has LaSalle substation.

8 Q. But you previously mentioned that if you
9 went to a separate set of poles for the second line
10 under LP Alt, that that would only be for 700 feet,
11 that that would eliminate the problem of the dangers
12 we discussed before, did you not?

13 A. Yeah, but you asked me on LP as it is
14 drawn. It is drawn right over the top of our
15 existing. I only commented in my surrebuttal about
16 the problems that I saw with things as they are drawn
17 and presented to me, not -- I am not -- I said, I
18 didn't try to reroute it or come up with different
19 alternatives. I commented as they were presented to
20 me.

21 Q. So you would be open to the suggestion of
22 drawing a parallel line for the existing 138?

1 A. Anything is -- it is possible. Almost
2 anything is possible with transmission line design,
3 given enough money and engineering effort.

4 Q. Looking at the impact of the four
5 elementary districts that caused the Company to
6 rethink its position on its route, how would you
7 compare the impact on those grade schools to the
8 impact of the alt lines on the high school?

9 MR. SHAY: I would as for clarification.

10 Q. As it relates to --

11 MR. SHAY: You said the high school. The high
12 school isn't there, so are you talking about the high
13 school facility?

14 MR. ZUKOWSKI: The high school's property.

15 Q. Do you understand the question?

16 A. I really don't. I guess I really don't.

17 MR. ZUKOWSKI: Could you read it back, please?

18 (Whereupon the requested portion
19 of the record was read back by
20 the Reporter.)

21 A. Well, the elementary schools are existing.
22 At the time we looked at that, at the time we were

1 doing our routings, the elementary schools were
2 existing. The facility on this property were not yet
3 established. We had no copies of the plans for that.

4 Q. But you do have copies now, do you not?

5 A. We have an architect's rendering, yes.

6 Q. And if the High School, we purchased the
7 property within the last several years, in fact
8 constructs something on or intends to construct
9 something on its property adjacent to the LaSalle
10 substation, how would the High School's property be
11 impacted compared to the impact on the elementary
12 schools?

13 MR. FITZHENRY: Judge, that question has been
14 asked and answer, I think, twice now.

15 MR. ZUKOWSKI: I think he answered the question
16 based upon nothing being constructed there.

17 MR. FITZHENRY: That's his answer.

18 MR. ZUKOWSKI: And I am asking you now if the
19 High School does construct on it.

20 MR. FITZHENRY: Well, then it calls for
21 speculation. You know, it is not built. His answer
22 is because the four elementary schools were up and

1 running, that's why we gave great consideration to
2 the public concern. There is nothing there right now
3 on the property. That's his testimony.

4 JUDGE ALBERS: Sustained. Move on,
5 Mr. Zukowski.

6 MR. ZUKOWSKI: I have no further questions.

7 JUDGE ALBERS: Thank you. Mr. Madiar or
8 Mr. Scotti or Mr. Leigh?

9 CROSS EXAMINATION

10 BY MR. LEIGH:

11 Q. Mr. Emmons, I want to direct your attention
12 to your direct testimony, page 5, about line 90. You
13 talk about you are discussing the advantages of the
14 proposed primary route from LaSalle to Weber. And
15 you indicated it impacts the fewest number of
16 occupied structures. When you do the evaluation or
17 your route analysis in terms of selecting primary
18 versus alternate, will you look at proposed
19 construction in the areas, subdivisions being
20 platted, things of that nature also, other than
21 existing structures?

22 A. We look at future development but we don't

1 necessarily count them as occupied structures at the
2 time. We look at -- we look at how it could impact
3 future developments. But, no, as far as occupied
4 structures, we do not count proposed building sites
5 as occupied structures now.

6 Q. Even if the land has been subdivided and
7 platted and there are homes being built?

8 A. If the foundation -- I guess if the
9 foundation were there at the time that our
10 photography and our GIS data base was established,
11 the houses were substantially completed, they might
12 be counted.

13 Q. Well, I assume that the criteria of
14 occupied structures is something you use in deciding
15 a route?

16 A. It is one of the criteria.

17 Q. Would it be reasonable to also consider a
18 platted subdivision where construction is ongoing,
19 whether it is a 40-lot subdivision or a 50-lot
20 subdivision where construction had just begun?

21 A. It depends on where the line would be with
22 respect to the building sites and their orientation

1 toward the line.

2 Q. On that same page you also found it as an
3 attribute that the proposed primary route avoids
4 passing directly through Wedron. Do you see that?

5 A. Yes.

6 Q. Does that indicate that that is one of your
7 goals in routing, you try to avoid going directly
8 through municipalities if they can be avoided?

9 A. If they can be avoided, we try to go -- we
10 try to go away from areas where our line is such that
11 we impact a lot of houses, and that for a
12 reasonable -- a reasonably costed alternative exists
13 for moving away from them. And we will also go away
14 if we have it such that our right-of-way will
15 actually be located, go through a house, that's a
16 situation that we would try to avoid, is where our
17 general right-of-way with our nominal right-of-way
18 width would pass through a structure would be
19 something. But those are some examples of why we
20 chose not to go through the town of Wedron.

21 Q. So it would be a goal then of Ameren that
22 if it had a primary and alternate routes, it would

1 attempt, assuming the alternate routes were viable,
2 it would attempt to avoid population centers?

3 A. It depends on what the -- again, I said it
4 depends on what the impact -- how close the line is
5 and how they are oriented toward the line.

6 Q. Well, you have talked a lot with
7 Mr. Zukowski and the other counsel about the route
8 that was initially proposed as the primary route, not
9 the one that was contained in this filing, but the
10 one that Ameren put out in March or April of 2006?

11 A. Yeah.

12 Q. That primary route did not go into the city
13 of Ottawa from LaSalle, did it?

14 A. Our initial primary?

15 Q. Your initial primary that was north of
16 Route 80.

17 A. Our initial primary right now is all --

18 Q. Not the one that is in this filing, the one
19 that was altered from the pressure from the school
20 districts, that primary route did not enter the city
21 of Ottawa from the west, did it?

22 A. It is still on the books as Alternative 1

1 now. Our original primary route became Alternate
2 Route 1.

3 Q. Doesn't it turn -- didn't the original
4 primary route go way north of the city of Ottawa?

5 A. It is still pretty much where it was. It
6 was this -- it is this brown -- it is this brown
7 route, right?

8 Q. And the city of Ottawa is measurably south
9 of that, is it not?

10 A. Yes.

11 Q. So your original primary route did not
12 enter or impact the city of Ottawa from LaSalle
13 whatsoever, is that a fair statement?

14 A. Yes, I think that's a fair statement.

15 Q. So as I understand your testimony, as a
16 result of a meeting with three elementary school
17 districts and the City of LaSalle, Ameren elected to
18 move the primary routes down to Route 80 and then
19 directly enter the city limits of Ottawa?

20 A. That wasn't a meeting with school
21 districts. That was a meeting -- that was a public
22 workshop meeting. And it wasn't just -- it wasn't

1 just the school corporation, although they all
2 submitted opposition to it. But this was a meeting
3 of the general population that was on all three
4 routes, was invited to that meeting. I mean, any one
5 of those people had the opportunity to make those
6 comments and the comments were overwhelming.

7 Q. But at the time of that meeting the
8 proposed primary route from LaSalle did not enter the
9 city of Ottawa?

10 A. No, it did not.

11 Q. And I think you were asked this, but was
12 there anything from an engineering standpoint or a
13 viability standpoint from Ameren's point of view that
14 caused that shift other than the public outcry?

15 A. That was the primary. That was the primary
16 reason.

17 Q. So it had nothing to do with any of the
18 routing factors that is contained in your testimony
19 and the exhibits submitted by Ameren?

20 A. Yeah, that public acceptance is the --

21 Q. Was it the controlling factor?

22 A. It was in making this move from North 33

1 Road to its existing location. It wasn't just -- I
2 said, I submitted the comments that we got from the
3 public workshops on the LaSalle to Wedron route, and
4 they were positively overwhelming. I mean, everyone
5 that had a comment said move it off -- well, I
6 shouldn't -- I will rephrase that because that is not
7 entirely true. But the vast majority of the people
8 that was invited from all three, they were invited
9 from all three routes, from all three routes, all
10 said that this is just unacceptable to --

11 Q. So that public opposition then was the
12 cause to change the primary route; there was no other
13 routing factor?

14 A. That was the primary cause of the change.
15 We did find that after we moved to our alternate that
16 we found that it was -- that the cost factor of doing
17 this, of satisfying this, the cost factor turned out
18 to be that this was a slightly -- a comparable cost.
19 As I said, it wasn't enough to say that it was a lot
20 less expensive, but it was something that we could do
21 that was of reasonable cost.

22 Q. Well, you had already costed the routes by

1 that time, had you not, between the initial proposed
2 primary and the two alternates?

3 A. I don't recall. That's just -- not in our
4 final form, no.

5 Q. Have you seen Ottawa Exhibit 2.1 that
6 accompanied the mayor's testimony?

7 A. Yeah.

8 Q. Now, the map that I believe is the second
9 page of that?

10 A. Uh-huh.

11 Q. And I think the first page of that has a
12 file stamped date when that was received by the City
13 of Ottawa?

14 A. Sure.

15 Q. April 4, I believe, 2006. When did Ameren
16 notify the City of Ottawa that the primary route had
17 been changed, if you know?

18 A. I don't know at what point it was.

19 Q. I guess my question is why do you place a
20 value in your testimony on avoiding going through the
21 town of Wedron but you have no difficulty changing
22 around and coming through the city of Ottawa?

1 MR. FITZHENRY: Could I have that question
2 repeated, please?

3 JUDGE ALBERS: Why don't you say it again?

4 BY MR. LEIGH:

5 Q. Why do you find it to be a benefit of the
6 primary route to avoid Wedron and a benefit to change
7 your route to come through the city of Ottawa? Why
8 is it beneficial from Ameren's viewpoint to adversely
9 impact one municipality and not the other one?

10 MR. FITZHENRY: We would object to the
11 characterization of adversely impact, but subject to
12 that clarification.

13 Q. Or impact. Do you understand my question?

14 JUDGE ALBERS: I sustain your objection and you
15 can go ahead and answer the question.

16 A. I think so. And I guess my answer to that
17 would be where we are impacting and the amount of
18 people that we are impacting, and I assume what we
19 are talking about is the area right here.

20 Q. Well, we are talking about there are two
21 subdivisions that you are going by, Shadow Ridge and
22 Terracotta.

1 MR. FITZHENRY: Mr. Leigh, I don't mean to
2 interrupt. Just for the sake of the record and once
3 we are reading the transcript, you are referring to
4 the public hearing map, are you not?

5 MR. LEIGH: Yes, we are.

6 A. And where are those?

7 Q. Well, do you know where they are?

8 A. We are not -- there were no homes. What I
9 have to say is that at the time that we decided to
10 avoid the city, the town of Wedron, the village of
11 Wedron, I am not sure what the definition of that
12 locality is, we were going to be directly in people's
13 front yards and directly going by existing houses.
14 And we did not go through the city. We preferred not
15 to go. We could do it. We preferred not to go
16 through the city, the town of Wedron, because of the
17 close proximity of houses that were existing.

18 Q. Well, your initial preference was not to
19 come into the city of Ottawa either, was it?

20 A. No.

21 Q. And if you had written your testimony with
22 respect to what was proposed to be the primary route

1 in April of 2006, couldn't you make the same
2 commentary, that that was the most beneficial route
3 because you avoided the city of Ottawa?

4 A. I am not sure I understand.

5 Q. Well, in your testimony that you filed, in
6 giving the advantages of the current primary route,
7 you say one of the advantages is that it avoids
8 passing directly through the town of Wedron. Now, if
9 you had stuck with your original primary route and
10 you were giving the advantages of that, couldn't you
11 say in defense of that primary route that it avoids
12 passing through the city of Ottawa?

13 MR. FITZHENRY: Judge, Ms. Von Qualen is going
14 to prove me to be true in terms of my attitude about
15 such things. That's really speculative. He didn't
16 write testimony in support of the route that was out
17 there in March or April. I think I understand where
18 he is going with his question but, you know, you are
19 asking Mr. Emmons now to go back in time and give
20 thought to about how he would write his testimony in
21 support of a route that we are not supporting today,
22 and it just don't make a lot of sense to me.

1 MR. LEIGH: Let me just rephrase it.

2 JUDGE ALBERS: Yes, I think I can see where you
3 are going to. Just keep it going. And by the way --

4 BY MR. LEIGH:

5 Q. With respect to the alternate routes today,
6 and they are substantially similar to the original
7 proposed primary route and the other alternate route
8 that was proposed in April of 2006, correct?

9 A. Yes.

10 Q. Couldn't you say the advantages of those
11 two routes are that they avoid the city of Ottawa?

12 A. I am not sure I would have because I don't
13 see what the impacts to the city -- I don't know why
14 I would have brought that out because I don't see the
15 impacts that I would have been -- that the line would
16 have been causing on the city of Ottawa.

17 Q. What were the impacts that the lines were
18 causing on the elementary districts that caused you
19 to change your route?

20 MR. FITZHENRY: Well, that question has been
21 asked and answered five times. Mr. Emmons has stated
22 repeatedly that it was the public sentiment not to

1 cross the line.

2 Q. I will rephrase the question. Are you
3 aware that the City of Ottawa opposes the primary
4 route?

5 A. Yeah.

6 Q. Did he answer?

7 A. Yes, yes.

8 MR. FITZHENRY: He said yes. I made him say
9 yes.

10 JUDGE ALBERS: If you think it is getting
11 warmer in here, it is. The air conditioning went off
12 at 6:00. I'm sorry, at 5:00.

13 BY MR. LEIGH:

14 Q. Mr. Emmons, on line 112 of your Exhibit
15 3.0, you talk about the purpose of the public input
16 process.

17 A. What was the reference?

18 Q. 3.0.

19 A. Oh, okay.

20 Q. You talk about the purpose of the public
21 input process, and one of the considerations is
22 future economic growth of the local community, is

1 that correct?

2 A. That is correct.

3 Q. So when we talked earlier about
4 subdivisions that had been platted and houses that
5 are being built and you don't count those in terms of
6 occupied residences, doesn't that negate
7 consideration of the future economic growth of the
8 community, when things have actually been planned and
9 platted?

10 A. They would count if we determined that our
11 line goes correctly, directly through a platted
12 subdivision in a way that adversely affects a lot
13 of -- you know, makes lots unsaleable because our
14 easement is occupying a large portion of its acreage.

15 Q. So what aspect then of future economic
16 growth do you consider? Just if it is opposition?

17 A. If we believe that our line is -- if we
18 believe our line is cutting across property or going
19 through property that would stop -- that would stop a
20 future -- that would completely stop a future
21 development.

22 Q. That would be the only consideration, if it

1 would totally stop the development?

2 A. Or severely hampered its ability, severely
3 hampered its ability to make a sustainable run.

4 Q. If I could turn your attention briefly to
5 your surrebuttal 16.0, lines 83 and 84, you indicate
6 that traffic accidents are the primary source of
7 catastrophic events to power lines. Is that a
8 correct statement, line 83 and 84, that traffic
9 accidents are a primary source of catastrophic events
10 to power lines?

11 A. One of the primary sources.

12 Q. A primary source?

13 A. A primary source.

14 Q. So running the primary line from Wedron to
15 Ottawa down Route 71 exposes that line to a primary
16 source of catastrophic event as compared with the
17 alternate routes in this docket?

18 A. That is a sufficiently wide state -- would
19 be adjacent to a sufficiently wide state highway that
20 there is a significant amount of separation between
21 the edge of the pavement and the location of the
22 line.

1 Q. What is the proposed separation along Route
2 71?

3 A. I would have to defer to Mr. Murbarger for
4 the specifics of that.

5 Q. So you don't know?

6 A. I don't know on Illinois 71.

7 Q. Well, then how do you know the likelihood
8 of catastrophic event is diminished?

9 A. Well, the portion that I was referring to
10 in my surrebuttal was through an agricultural field.
11 It was an agricultural area. It is not adjacent to a
12 roadway.

13 Q. So you are suggesting that the likelihood
14 of a catastrophic motor vehicle accident is higher in
15 a rural area than a highly traveled state highway?

16 A. I don't understand that.

17 Q. Well, you indicated your statement that I
18 pointed you to, lines 83 and 84 of your surrebuttal,
19 you indicate you are referring to a totally
20 agricultural rural setting. And my question is are
21 you suggesting that the likelihood of a catastrophic
22 motor vehicle accident is higher in a rural setting

1 than it is on a heavily-traveled state highway like
2 Route 71?

3 A. No, I was simply saying that one of the --
4 our reasoning for double circuiting the line in this
5 area was that it is a rural setting that doesn't have
6 that potential for a catastrophic failure of the
7 line. This entire response was in response to a
8 statement about the redundancy of the loop versus a
9 double circuit portion. And what I was saying was
10 that this area of land that we are traversing here
11 does not have that potential for one of the --
12 doesn't have as a source of catastrophic event, did
13 not have vehicular accidents as a source of failure.

14 Q. Well, you did -- you do agree that a
15 primary source of catastrophic events with power
16 lines are traffic accidents?

17 A. That is correct.

18 Q. And do you agree that a factor of that is
19 the amount of traffic on a roadway?

20 A. That's one of the factors.

21 Q. Would you agree that Illinois Route 71 is a
22 highly trafficked state highway and is likely to

1 become more heavily trafficked with the development
2 of the Fox River Woods residential development?

3 A. I don't know what that Fox River Woods
4 development will do to the traffic, if it will happen
5 or doesn't happen. I don't know.

6 Q. Well, would you suggest that there is a
7 greater likelihood of catastrophic motor vehicle
8 accidents in and around Ottawa than there is in
9 Wedron, Illinois, simply by virtue of population?

10 A. It depends on where the lines -- it depends
11 on where the line is located with respect to the edge
12 of the pavement, more than it has to do with the
13 heavily traveled. The heavily traveled is the
14 proximity to the roadway. It has more to do with the
15 proximity to the roadway than it does with the
16 heavily traveled. But, yeah, heavily traveled is a
17 factor as well.

18 Q. Thank you. On page 23 of your surrebuttal
19 testimony at line -- your response beginning on 518
20 where you disagree with the statement of the mayor of
21 Ottawa that your proposed primary route will maximize
22 the number of people that will be exposed to the

1 transmission lines. Do you see where I am?

2 A. Yes.

3 Q. You disagree with that?

4 A. I guess I disagree with the term

5 "maximize."

6 Q. Well, and you put a table in your response

7 and again you are only counting occupied structures

8 in terms of the mayor's comment on exposed to

9 transmission lines, is that correct?

10 A. That is correct.

11 Q. You are not counting tourists or motor

12 vehicle occupants driving down Route 71 who will be

13 exposed to that transmission line, is that correct?

14 A. That is correct.

15 Q. You are not counting any development in Fox

16 River Woods subdivision or new development?

17 A. No.

18 Q. You are not considering any development on

19 Route 71, are you, in your response?

20 A. In my response I am not even on the Wedron

21 to Ottawa route. My response wouldn't take into

22 account anything on Illinois 71.

1 Q. All right. Would you agree with the
2 mayor's comment as it applies or if it was made to
3 the Wedron-Ottawa route along Route 71?

4 A. I honestly don't know. I don't know how
5 many people are ever going to live in the Fox River
6 Woods development. I personally don't know.

7 Q. Well, how about just visual impact or
8 visual exposure to the lines? Would you not agree
9 that putting it on Route 71 increases the exposure to
10 anyone traveling that route? And by that I mean it
11 increases it. Increased exposure over the
12 alternates, particularly the Railnet route.

13 MR. FITZHENRY: I am sorry, are you talking
14 about visual impacts?

15 Q. Yes. Would you agree with that?

16 A. As far as people that can see it, I guess
17 that's -- I guess putting it along that route would
18 probably mean that more people would see it.

19 Q. As compared with the Railnet route, would
20 you agree?

21 A. I don't know about it in its entirety. I
22 don't know how many people would see the Railnet

1 route before it gets out of the town of Ottawa.

2 Q. How about between Wedron and the corporate
3 limits of Ottawa? Are there any highways that
4 parallel the Railnet route?

5 A. No.

6 Q. And does the Railnet route to your
7 knowledge have passenger trains on it?

8 A. No.

9 Q. So don't you think it is a fair statement
10 that placement along Route 71 in fact would be
11 dramatically more visual exposure than the Railnet
12 route?

13 A. More people will see it, if that's what you
14 are trying to say.

15 MR. LEE: Thank you. That's all I have.

16 JUDGE ALBERS: That's all you have? Okay,
17 thank you. Mr. Madiar, do you have --

18 MR. MADIAR: I will try to be brief.

19 CROSS EXAMINATION

20 BY MR. MADIAR:

21 Q. Good evening, Mr. Emmons.

22 A. Emmons.

1 Q. My apologies. My name is Eric Madiar. I
2 represent Illinois 71 Resistors. I just have a few
3 questions for you. A lot of parties have covered
4 some of the material that I intended to cover.

5 Now, just in terms of your background,
6 you are a licensed engineer, is that my
7 understanding?

8 A. That is correct, in the state of Indiana.

9 Q. In the state of Indiana. Now, for purposes
10 of this project are you the principal engineer on
11 this project for Ameren?

12 A. I am the project engineer and project
13 manager.

14 Q. Has that been -- in that capacity, is one
15 of your job functions to not only look at the budget
16 costs for the project but also to approve any designs
17 and things of that nature for the project?

18 A. Yes.

19 Q. So, for example, you would not only approve
20 the design aspect for the LaSalle line, but you would
21 also approve the design aspects for the Ottawa line,
22 is that correct?

1 A. The actual design of that, of the line, is
2 being directed by Mr. Murbarger on the LaSalle -- on
3 the Ottawa to Wedron portion.

4 Q. I understand that he has testified to the
5 Ottawa-Wedron line. But my question is ultimately if
6 there is some design aspects, do they have to go
7 through you for approval?

8 A. Yes.

9 Q. They do. And with respect to budget costs
10 and estimates for the project, that is something that
11 you are ultimately in charge of?

12 A. Yes.

13 Q. So if there are cost estimates from anybody
14 on the team that you described, they would ultimately
15 have to go through you?

16 A. Eventually, yeah, before they became
17 official, an official company estimate, they would.

18 Q. And as you put it in your surrebuttal
19 testimony, you are the only person on the project who
20 is authorized to request, produce or verify another
21 overall route estimate?

22 A. Yes.

1 Q. Would that be a fair characterization?

2 A. Yes.

3 Q. Now, as part of your surrebuttal testimony
4 at the very end, and I will be brief in my cross, you
5 refer to Dr. Paul Nixon's testimony and you respond
6 to his discussion of the U.S. Department of Energy,
7 Energy Cost Estimating Guidelines, am I correct?

8 A. Yes.

9 Q. Now, in fact you also refer to a data
10 request response that Commission Staff had sent to
11 you, am I correct?

12 A. Yes.

13 Q. Do you happen to have a copy of that with
14 you? Otherwise, I can provide one to you.

15 A. I certainly have one.

16 Q. Now, am I correct that this particular
17 exhibit which is your response to Staff Data Request
18 RDL 3.4, that was prepared by you on March 8 of this
19 year?

20 A. Yes.

21 Q. And as attached to this exhibit you have
22 included some schedules that are labeled Table 4,

1 Degrees of Accuracy, Table 11.1, Contingency
2 Allowance Guide by Type of Estimate, am I right?

3 A. That is correct.

4 Q. Now, so this is something you are familiar
5 with and you prepared?

6 A. Yes.

7 Q. And am I correct that the table and the
8 Degree of Accuracy, that is something that you
9 obtained from the U.S. Department of Energy Cost
10 Guidelines?

11 A. In my -- are we talking about the table in
12 my data response?

13 Q. Correct, yes.

14 A. No, they were not obtained from the
15 Department of Energy Cost Guidelines.

16 Q. How about Table 11.1, a Contingency
17 Allowance Guide by Type of Estimate, is that
18 something that you obtained from the Department of
19 Energy Cost Guidelines?

20 A. My contingency -- I guess I am going back
21 to your previous question was these two documents I
22 obtained from the Department of Energy.

1 Q. That was my question.

2 A. Oh, I am sorry. I thought you were talking
3 about where I got my figures in the Ameren table. I
4 am sorry, I stand corrected.

5 Q. My apologies. I was referring to what was
6 on pages 2 and 3...

7 A. Oh, yes.

8 Q. ..of this request that you prepared for
9 Staff?

10 A. That is correct, yes, they came from the
11 Department of Energy Guidelines.

12 MR. MADIAR: Your Honor, I have what I would
13 like to mark as Illinois 71 Resistors Cross Exhibit,
14 I think we are -- shall I just start a new series?

15 JUDGE ALBERS: I think it would be 4.

16 MR. MADIAR: I will go with his Number 4.

17 MR. FITZHENRY: You have marked as a cross
18 exhibit his exhibit?

19 JUDGE ALBERS: What do you want to do?

20 MR. MADIAR: Mark it as a cross exhibit.

21 MR. FITZHENRY: He marked 16.14 as a cross
22 exhibit.

1 JUDGE ALBERS: Yeah, if that is already in
2 there --

3 MR. MADIAR: My apologies. Then we won't go
4 through this. I apologize.

5 Q. So, Mr. Murbarger, in reviewing this
6 document -- I am sorry, did I say Murbarger?
7 Mr. Emmons, in looking at this response that you
8 prepared and then referring back to your surrebuttal
9 testimony on your last page...

10 A. Yes.

11 Q. .. you state at lines 532 through 535 that
12 the intent was -- that the intent by utilizing the
13 Department of Energy Guidelines and the contingency
14 factors was to show that they were comparable to,
15 quote, established guidelines used in the utility
16 industry, is that right?

17 A. That is correct.

18 Q. Now, would you accept that the Department
19 of Energy Cost Estimating Guidelines is established
20 guidelines in the utility industry?

21 A. For a segment of the utility industry, yes.

22 Q. Okay. Now, did you have a chance to -- I

1 take it that you had a chance to review Dr. Paul
2 Mixon's rebuttal testimony in this proceeding,
3 haven't you?

4 A. Some, to a limited degree.

5 Q. And would I be correct that you in fact
6 reviewed what has been marked as Illinois 71
7 Resistors Exhibit 3.23? Your Honor, I intend to use
8 this as a cross exhibit, so I can mark this as a
9 cross exhibit or I can just go with what we have got.

10 JUDGE ALBERS: If it is an exhibit to
11 Mr. Mixon's testimony, just refer to that.

12 BY MR. MADIAR:

13 Q. Very good. Do you have a copy of it?

14 A. Yes, I have a copy of it.

15 Q. Okay, very good. Now, turning to after the
16 cover page of this document on the first page, we
17 will do it toward the end, it starts out the American
18 Association of Cost Engineers, do you see that?

19 A. Yes.

20 Q. And it provides a definition for the term
21 "accuracy." And it says the degree of conformity of
22 accuracy is defined as the degree of conformity of a

1 measured or calculated value to some recognized
2 standard that supports specified value. Would you
3 agree with that definition of accuracy?

4 A. I suppose that seems like a reasonable
5 definition.

6 Q. Would you also agree with the statement
7 after that that accuracy depends on the amount of
8 quality information available as well as the judgment
9 and experience of the estimator?

10 A. Yes.

11 Q. Okay. Now, turning to page 4-4 under
12 Guidelines.

13 A. Yes.

14 Q. Now, let me just step back a bit. You have
15 reviewed this document, am I correct?

16 A. Yes.

17 Q. And do you know of this document to
18 contain, for example, the same Table 4-1 that's
19 contained in your data request response?

20 A. Yes.

21 Q. And would you further understand this
22 document to be an explanation at page 4-3 through 4-4

1 of what are budget for conceptual design estimates?

2 A. Yes.

3 Q. And the budget estimates that we are
4 speaking of are the budget estimates that Ameren
5 uses, am I correct?

6 A. That is correct.

7 Q. Okay. So turning then to 4-4 for
8 Guidelines, it is 3B, the last sentence, do you agree
9 that the estimator must fully document the basis of
10 the estimate, including sources of quotations,
11 assumptions and any items specifically omitted?

12 A. I would assume if you are working on a
13 Department of Energy funded project, those would be
14 required.

15 Q. I am not asking you that. I am asking do
16 you agree that an estimator who is doing budget
17 estimating must fully document the basis, as it says
18 in this line? Do you agree that if you were doing
19 budget estimates that what this statement states, do
20 you agree with it? I can rephrase.

21 MR. FITZHENRY: Yeah, there are a couple of
22 questions there.

1 Q. There is a couple. Okay. What I am asking
2 is for whether you agree with that sentence or not,
3 about performing budget estimates.

4 A. In general you need to do that to know
5 where you stand on the estimate, what it's based on.

6 Q. Because you want your numbers to be right,
7 am I correct, with as much information as you have?

8 A. As much information as you have.

9 Q. So if somebody were to bring, within your
10 team, if they were to bring you some budget
11 estimates, you would expect them to fully document
12 their estimate and the basis for their estimate, am I
13 right?

14 A. Yes, I would want to see what their
15 assumptions were.

16 Q. Not only their assumptions, am I correct,
17 but also what their documentation of support is?

18 A. Yes.

19 Q. And what the basis for their estimate is?

20 A. Yes.

21 Q. Okay. And you would also want to know,
22 well, where did you get your numbers from or, as this

1 sentence states it, the sources of the quotations?

2 A. Yes.

3 Q. Because you want to be able to know that
4 you are getting the information from a reliable
5 source, right?

6 A. That's true.

7 Q. And one of the other things, of course, is
8 if they are making certain assumptions, you want to
9 also know that they haven't left anything out that
10 could be pertinent to the budget estimator?

11 A. I guess it depends at what stage we are at
12 in the design process. You know, you may or may not
13 know all of the facts included, especially at the
14 budgetary level.

15 Q. But at the budgetary level you want to know
16 as much as you possibly can?

17 A. Yes.

18 Q. That would be largely consistent with some
19 of the description provided on the previous page and
20 continuing onto page 4.4, am I right?

21 A. Yes.

22 Q. Now, to jump to a separate issue, Mr.

1 Murphy in his cross examination asked you about
2 routes that were acceptable to Ameren along the
3 LaSalle to Wedron line. Do you remember those
4 questions or do you remember that conversation?

5 A. Yes.

6 Q. Now, am I correct that what you essentially
7 answered was that Ameren would be okay with any of
8 the three routes along the LaSalle-Wedron line if the
9 Commission were to select one of those three routes?

10 A. That is correct.

11 JUDGE ALBERS: Any of the three Ameren routes?

12 MR. FITZHENRY: Well, I think that perhaps I am
13 being premature in my objection. Mr. Madiar is
14 engaging in cross examination on cross examination
15 which is a prohibited practice before the Commission.
16 It is not for him to sit around and hear other
17 attorneys ask questions and then do follow-up. And I
18 suspect that is where he is going unless he cleverly
19 masks his questions as his own.

20 JUDGE ALBERS: Well, I am going to let Mr.
21 Madiar go.

22 BY MR. MADIAR:

1 Q. All right. So your answer, you agree
2 that -- okay, I will ask my question. Am I correct
3 that you essentially answered that Ameren would be
4 okay with any of the three routes that Ameren came up
5 with if the Commission were to select one of those
6 three routes?

7 A. Yes, we presented them as constructible
8 routes.

9 Q. Now, would your answer be the same with
10 respect to the Ottawa-Wedron line?

11 A. Yes, we presented them as constructible
12 alternatives.

13 Q. Okay. Now, one of the other things that
14 you -- that I understand is part of this process in
15 your team, at any point in your job duty as team
16 leader was there prepared a written study, a routing
17 study, prepared by you or at your direction?

18 A. No, there was not.

19 Q. There was no -- so what you are saying is
20 all that you had were team meetings; there was never
21 anything that was put on paper as a single document
22 of any kind that talks about the pros and cons of one

1 route alternative versus another?

2 A. Not as a comprehensive document.

3 Q. So were there separate documents for
4 separate route segments?

5 MR. FITZHENRY: I don't understand the
6 question. What kind of documents are you referring
7 to?

8 THE WITNESS: Yeah, I guess --

9 MR. MADIAR: Documents generated by Mr. Emmons
10 or his team at his direction.

11 MR. FITZHENRY: I am going to object to
12 relevance and materiality. It sounds like sort of a
13 discovery issue with you.

14 MR. MADIAR: Well, given our past history of
15 having discovery disagreements, I feel it might be
16 appropriate for me to ask this question so I could
17 insure that I received what I have asked for.

18 JUDGE ALBERS: Very briefly I will let you
19 proceed.

20 BY MR. MADIAR:

21 Q. All I am asking for in my follow-up is was
22 there any documents prepared that addressed

1 individual route segments, either by you or your
2 team?

3 A. The documents that we gave, that I gave as
4 work papers of a lot of our public meetings, were a
5 lot of my documentation that I already submitted as
6 work papers to all the various groups that asked for
7 them.

8 Q. Okay, thank you. One last question, and
9 did you have a chance to review Dr. Paul Nixon's
10 direct testimony in this proceeding?

11 A. I did not really read it in its entirety, I
12 guess, with enough to comment on any specific
13 sections on it.

14 Q. Let me direct you to -- do you have it with
15 you?

16 A. Actually, I do not. Since I did not
17 directly respond to it, I did not bring it.

18 Q. I would like to direct you to page -- I
19 would like to direct you to pages 13 and 14.

20 A. Okay.

21 Q. And I would like to direct you to beginning
22 at line 268 through line 287, onto the next page, I

1 am sorry, on his direct. Have you had a chance to
2 review it?

3 A. Yes, I saw it.

4 Q. Now, on page 14 at lines 284 through 287,
5 Dr. Mixon says that these 12 routing criteria are
6 given in no particular order and are given no
7 particular weighting relative to one another. Would
8 you agree with that statement regarding the 12
9 routing factors?

10 A. There is no specific mathematical weighting
11 factor that's been applied to each one.

12 Q. Now, referring you to your surrebuttal
13 testimony --

14 JUDGE ALBERS: How many more questions do you
15 have?

16 MR. MADIAR: Two more. That's it. I know
17 everyone wants to get out of here.

18 Q. All right. Referring you to page 4 of your
19 surrebuttal testimony, would you agree that at lines
20 82 through 84, that's where you -- at that point in
21 your testimony you say that, for roadways, a primary
22 source of catastrophic event for power lines is

1 traffic events, correct?

2 A. Yes.

3 Q. Is it understood in the electric utility
4 industry that a primary source of catastrophic event
5 to power lines adjacent to roadways are traffic
6 events?

7 A. As I stated earlier, it has to do with
8 proximity, proximity to the roadway, and how the
9 structures are located with respect to curves and
10 closeness to the edge of the pavement.

11 Q. I was just asking you, is it understood in
12 the electric utility industry that a primary source
13 of catastrophic event for power lines along roadways
14 are traffic events?

15 A. Yes.

16 Q. Now, would you agree that avoiding
17 catastrophic events to power lines along the roadways
18 is an important benefit to consider in route
19 selection?

20 A. Could you repeat that?

21 Q. Sure. Would you agree that avoiding
22 catastrophic events to power lines along roadways is

1 an important consideration in route selection?

2 A. I think the placement of structures with
3 proximity to roadways is an important part of
4 designing, but not necessarily a part of roadway -- a
5 part of route selection.

6 Q. So as part of route selection you wouldn't
7 consider trying to avoid catastrophic events since --
8 you wouldn't try to avoid placing your structures
9 along areas where a catastrophic event could occur?

10 A. We actually place -- we place along
11 roadways, we place our lines within roadways in a lot
12 of instances. We try to design them so they are not
13 subject to easy access to a catastrophic -- to a
14 major accident. We try to avoid those situations.
15 But as far as catastrophic events next to roadways,
16 no, I wouldn't say that that's really a routing
17 criteria that we follow. As per guidelines set forth
18 by the Commission who say that we should utilize such
19 right-of-ways.

20 Q. Last question, would you expect there to be
21 a greater potential for a catastrophic event to a
22 power line along a roadway due to a traffic accident

1 than to a power line located along the railroad
2 right-of-way?

3 MR. FITZHENRY: This question is beat to death.
4 We have talked about this in the context of Railnet
5 and there were several questions along these lines.

6 MR. MADIAR: But those were his questions; they
7 weren't my questions. So I get to ask my questions.
8 That's why I am here, right?

9 MR. FITZHENRY: To ask the same questions over
10 and over, no, that's not appropriate.

11 JUDGE ALBERS: Answer this one, and I have some
12 comments for tomorrow.

13 THE WITNESS: What is the question, again?

14 BY MR. MADIAR:

15 Q. Would you expect there to be a greater
16 potential for a catastrophic event to a power line
17 along the roadway due to a traffic accident than a
18 power line located along a railroad right-of-way?

19 A. I don't know. It depends on the proximity
20 of the line to the edge of the pavement. Are the
21 structures placed -- I don't know. That's just
22 something that I would just speculate. There could

1 be a train derailment on the railroad. I don't know
2 how many derailments they have along the Illinois
3 Railnet. I don't know. We try to design lines that
4 are safe and away from the edges of right-of-way. I
5 would be speculating at this point about those.

6 MR. MADIAR: Thank you.

7 JUDGE ALBERS: Okay. I have a couple of
8 questions but before I do that, we are going to take
9 a brief recess.

10 (Whereupon the hearing was in a
11 short recess.)

12 JUDGE ALBERS: Back on the record. Just a few
13 questions for you, Mr. Emmons.

14 EXAMINATION

15 BY JUDGE ALBERS:

16 Q. If you could please refer to Mr. Ward's
17 Exhibit 13.2, the photograph that he has included,
18 given your engineering background just by looking at
19 this photograph can you tell me what size lines these
20 are?

21 A. Yeah, the one -- the first picture is a
22 double circuit and the double circuit with pole line

1 and that appears to be, that's 138 kV.

2 Q. Okay.

3 A. As well as the Willow Knolls, the second

4 picture, that's also 138 kV double circuit.

5 Q. Okay. Go ahead.

6 A. That's probably --

7 Q. If you don't know for sure --

8 A. The third one I can't see a string of

9 insulators hanging down so I really can't tell. One

10 side has them for sure on the third. It is

11 transmission class, but I have no idea what that is.

12 It looks as if this line in East

13 Peoria has it doubled. It looks like a double

14 circuit 138 with a double circuit 469 kV underbuild.

15 And the fourth, the last picture,

16 that's -- yeah, the fifth picture, the I-80 near

17 Morris, in fact that is a ComEd 345 double circuit

18 line.

19 Q. Okay. Now, referring to that very first

20 picture in Oswego, Illinois, can you tell from

21 looking at this roughly how tall a pole that is? I

22 am talking about that center pole.

1 A. That's probably ten, ten, ten and -- I
2 would assume that that's probably about, that's
3 about -- I would assume that's about 70, 75 feet out
4 of the ground.

5 Q. Okay. I am just trying to get a sense of
6 the scope of it here.

7 A. Yeah, it is based on the spacing between.
8 I know the spacing for a 138 is about ten feet, so.

9 Q. All right. And then I understand you
10 indicated earlier that Ameren does not have any
11 personnel familiar with underground transmission
12 facilities?

13 A. Yes, that's correct.

14 Q. Given that, if a developer wanted to help
15 pay for underground facilities would Ameren still be
16 opposed to installing them? I didn't ask that very
17 well.

18 A. We have been asked that question before
19 and, yes, we would still be opposed to it. It isn't
20 just the construction issue. It isn't even primarily
21 a construction cost issue. It is a maintenance issue
22 on our part, a maintenance and operations issue, as

1 well as the cost is a factor. I won't understate
2 that. The cost at six to ten, it is roughly, you
3 know, five million. At the 138 level it is roughly
4 \$5 million a mile, gave or take.

5 Q. Buried is?

6 A. Yeah. But still we end up with a line that
7 we don't have in-house expertise in maintaining.

8 Q. Okay. Can you refer to your Exhibit 9.6?
9 The yellow route that was discussed in your testimony
10 as well as by some of the other witnesses, is there a
11 34 kV line running along most of that now?

12 A. Yes, there is. That would overbuild it,
13 overbuild it basically through the wooded section.

14 Q. Okay. Approximately how long of that "Y"
15 tree segment does that 34 kV line run?

16 A. Huh?

17 Q. Does that 34 kV line run through the wooded
18 section then?

19 A. Yes, it does. It turns at the last -- I
20 think it turns at the last road intersection before
21 we get to I-39.

22 Q. Okay. Do you know what size the type of

1 poles are along the 34 kV line as far as height?

2 A. I believe it is -- I believe it is wood.
3 For sections of it it is single pole but it is across
4 the river. It has some wood H frames. I would
5 actually defer to Mr. Murbarger on that because he
6 actually was an AmerenIP -- an Illinois Power
7 employee before the merger of Illinois Power and
8 Ameren. So he would have more idea on that line than
9 I would.

10 Q. On that particular line?

11 A. On the particulars of that line.

12 JUDGE ALBERS: Mr. Fitzhenry, could you just
13 turn to Mr. Murbarger? Is that correct, would he be
14 able to know about that?

15 MR. MURBARGER: Yes, I am somewhat familiar
16 with that line, yes.

17 BY JUDGE ALBERS: Thank you.

18 Q. And how wide of an easement would a 138 kV
19 line need in such an area?

20 A. Roughly it would need 100 feet.

21 Q. Is that a matter of Ameren policy or is
22 there someone writing an industry standard that

1 dictates that for a 138 kV line?

2 A. That's -- I won't say it is an Ameren
3 standard because Ameren is made up of four separate
4 operating companies with a lot of variance, shall we
5 say, between those four companies. But it has to
6 do -- especially in wooded area it has to do with not
7 only maintaining our clearances to existing
8 structures but also being able to control vegetation,
9 such that they don't fall, that we don't have large,
10 tall trees falling through the line on a regular
11 basis. It is not only clearance issues but
12 vegetation management issues and buildings and having
13 buildings up close to the line.

14 Q. Okay. Taking that into account, is that
15 100 feet AmerenIP's standard or is that something you
16 might -- whereas AmerenCILCO might have 95 feet or
17 AmerenCIPS might have 110 feet?

18 A. We are in the process of creating -- the
19 transmission line design group is trying to aggregate
20 those. Actually, that hundred foot wide right-of-way
21 is more or less an AmerenUE and Union Electric
22 standard that we use for steel pole, for steel pole

1 lines. We built more lines in the Union Electric
2 area than we have in any other areas lately. So for
3 steel poles, a steel pole 138, single pole lines, we
4 would use 100 feet based on their standard.

5 Q. And to extent you know, would Commonwealth
6 Edison, for example, they might have a different
7 preference?

8 A. Yeah, they might.

9 Q. So there is no over arching industry --

10 A. No, there really is not.

11 Q. Did you testify much regarding impact of
12 any of these proposed routes on Indiana Bat habitat?
13 I just don't recall.

14 A. Very little. That was not something that I
15 --

16 Q. Which Ameren witness, if you know, covered
17 that more?

18 A. The Ameren witness?

19 Q. Yeah, I just can't remember.

20 A. Mr. Cruse.

21 Q. Mr. Cruse, thank you. Are you familiar
22 with any of the City of LaSalle's development plans

1 along that yellow route?

2 A. We discussed that with the mayor and the
3 city engineer on three or four different occasions.
4 They said that they have -- that this area is in
5 their -- they are in the annexation process for that
6 area and that they have already invested in the
7 underground infrastructure of that area as a
8 development area.

9 Q. Have you come across anything that would
10 indicate development within that wooded area or is
11 that --

12 A. Not that I know of, not that I know of.

13 Q. If you don't know, that's fine.

14 A. I don't know.

15 JUDGE ALBERS: Okay. I think that's all I have
16 for you, Mr. Emmons, thank you.

17 Do you have any redirect?

18 MR. FITZHENRY: No redirect, Your Honor. At
19 this time we again move for the admission of Mr.
20 Emmons's testimonies and the exhibits that were
21 identified earlier today.

22 JUDGE ALBERS: Keeping in mind the ruling on

1 Mr. Murphy's first motion to strike concerning the
2 direct testimony of Mr. Emmons, are there any other
3 objections to any of the exhibits? Hearing none, can
4 you provide a revised version of Exhibit 3.0?

5 MR. FITZHENRY: Yes.

6 JUDGE ALBERS: And with that then the remainder
7 of Mr. Emmons's exhibits are admitted. That's 3.1
8 through 3.8, 9.0 through 9.7 and 16.0 through 16.14.

9 (Whereupon AmerenIP Exhibits 3.1
10 through 3.8, 9.0 through 9.7,
11 16.0 through 16.14 were admitted
12 into evidence.)

13 (Witness excused.)

14 JUDGE ALBERS: Mr. Flynn, I know we talked
15 about Mr. Hughes earlier.

16 MR. FLYNN: Yes. Actually, I have a number of
17 announcements about our schedule, if I might. Staff
18 very graciously offered to work with us on a
19 stipulation that would substitute for Staff's cross
20 examination of Mr. Hughes, if that's acceptable to
21 you. Staff was the only party that indicated it had
22 any cross for Mr. Hughes, and we are in the process

1 of trying to work that out overnight and get
2 something finalized tomorrow.

3 JUDGE ALBERS: Okay.

4 MR. FLYNN: We were so moved by Staff's offer
5 that we are planning to waive cross examination of
6 Ms. Phipps which also eliminates some time.

7 In addition, earlier today I notified
8 Mr. Scotti that we were dramatically reducing our
9 estimate of our cross for Mr. Abel from, I think we
10 reserved an hour, and we have rethought that and we
11 have something more in the magnitude or in the order
12 of ten minutes or so for Mr. Abel. This will clear
13 some more time.

14 I am also informed that we are going
15 to waive cross examination of Ms. Peterson, Mr. West
16 and Mr. Carter from the LaSalle-Peru group.

17 And then lastly I would note, though I
18 am not proposing any action today, that Ottawa and
19 the Illinois 71 Resisters have reserved time for the
20 cross examination of each other's witnesses. Of
21 course, we are waiting to hear what those questions
22 are, but I trust that those questions are with

1 respect to matters on which those parties are adverse
2 to each other, and that it is not something else.

3 JUDGE ALBERS: I noticed that as well, Mr.
4 Flynn. Thank you for pointing that out.

5 MR. FLYNN: I just wanted to make sure you
6 didn't forget.

7 MR. SCOTTI: Your Honor, I would object to any
8 limitation of Illinois 71 Resistors asking questions
9 of the Ottawa witnesses. All we are trying to do here
10 is get the facts out so that a good decision would be
11 made. And if there are additional facts that can be
12 brought out by cross examination, I would say we are
13 entitled to hear it.

14 MR. FLYNN: Well, the Illinois Resistors can
15 argue that all they want, but the point is this is
16 cross examination. The time for direct testimony and
17 introducing the facts that you wanted was established
18 by the schedule. This is not that time.

19 JUDGE ALBERS: I agree with Mr. Flynn. We have
20 a long standing practice of not allowing friendly
21 cross.

22 MR. SCOTTI: It just seems that on occasion you

1 will have a statement that comes off of the stand
2 that may be in some part a different question, but I
3 understand.

4 JUDGE ALBERS: If you think there is something
5 adverse or an area that you just don't know the
6 answer on, you can explore that with the witness.
7 But as far as just trying to bolster each other's
8 positions, we are not going to spend time on that.

9 MR. FLYNN: Anyway, with those updates the
10 situation is perhaps not as dire as it may otherwise
11 appear, and we remain hopeful that we will get
12 through this before my flight on Friday afternoon.

13 JUDGE ALBERS: I think we all remain hopeful
14 with that.

15 Before I turn to my comments, anything
16 else for today?

17 MR. FITZHENRY: Do you know what hearing room
18 we will be in tomorrow, Judge?

19 JUDGE ALBERS: We will be here in the morning
20 and I have asked that we can go to Room A in the
21 afternoon.

22 As far as my comments then, this is

1 not directed to any particular individuals but,
2 please, if you are testifying, answer the questions
3 asked. And I would encourage, I think Mr. Flynn read
4 my mind, I would encourage all the attorneys tonight
5 to evaluate their cross questions and ask only what
6 you really think need to be asked. And if you will
7 indulge me in an overused phrase, please stop beating
8 dead horses. If you realize you are not getting
9 anywhere, I realize you are all trying to make a
10 record, but at some point we have got to call an end
11 to it and I hope you can all police yourselves in
12 that respect.

13 That's the end of my comments. Is
14 there anything else then? Oh, a start time for
15 tomorrow, I am prepared to start at 9:00 but if I
16 hear anybody calling for 8:30, that's fine with me.

17 MR. FITZHENRY: Nine is fine for us.

18 MR. MADIAR: Nine.

19 MR. MURPHY: 8:30 -- nine is okay.

20 JUDGE ALBERS: All right. We will reconvene at
21 9:00 o'clock tomorrow morning. Thank you.

22 (Whereupon North Utica Exhibit

1 1.1 was marked for purposes of
2 identification as of this date.)
3 (Whereupon the hearing in this
4 matter was continued until
5 September 26, 2007, at 9:00 a.m.
6 in Springfield, Illinois.)

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